

103  
**INTERNATIONAL LABOR  
STANDARDS**

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**HEARING**

International Labor Standards, Seri... BEFORE THE

SUBCOMMITTEE ON  
INTERNATIONAL DEVELOPMENT, FINANCE, TRADE  
AND MONETARY POLICY

OF THE

COMMITTEE ON BANKING, FINANCE AND  
URBAN AFFAIRS

HOUSE OF REPRESENTATIVES

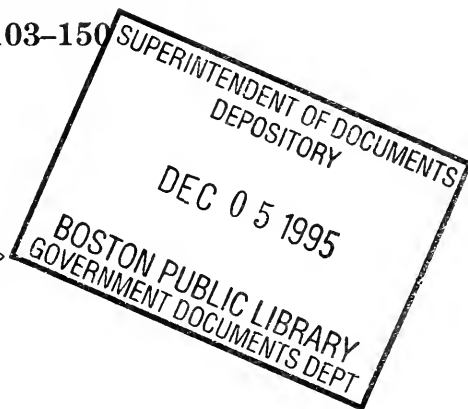
ONE HUNDRED THIRD CONGRESS

SECOND SESSION

JUNE 28, 1994

Printed for the use of the Committee on Banking, Finance and Urban Affairs

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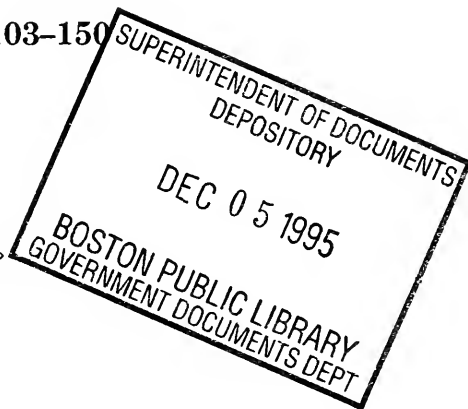
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# INTERNATIONAL LABOR STANDARDS

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TUESDAY, JUNE 28, 1994

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INTERNATIONAL DEVELOPMENT,  
FINANCE, TRADE AND MONETARY POLICY,  
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:08 a.m., in room 2128, Rayburn House Office Building, Hon. Barney Frank [chairman of the subcommittee] presiding.

Present: Chairman Frank, Representatives LaFalce, Kennedy, Kanjorski, Watt, Fingerhut, McCandless, Roukema, Huffington, Nussle, and Sanders.

Chairman FRANK. The hearing of the Subcommittee on International Development will come to order. We are very pleased today to have as our first witness the Secretary of Labor, Robert Reich. There is a major debate going on, I am pleased to see, because it is a debate that was long in coming and I think it is to the credit of the Administration and particularly Secretary Reich and others who have joined it. The question is, in a global economy, where you can make almost anything almost anywhere and sell it almost anywhere else, what are the appropriate responses by our government and others in the area of labor standards and environmental policy?

Secretary Reich is under some time constraints, so I am going to defer any longer opening statement. I hope my colleagues will join me until we can hear his testimony and have a chance to question him, and then we will take opening statements after Secretary Reich is through, if that is OK. Mr. LaFalce.

Mr. LaFALCE. Mr. Chairman, I would like unanimous consent to have my statement inserted in the record, but I also want to say how much I welcome Secretary Reich. He first testified before me when I was chairman of the Economic Stabilization Subcommittee in 1983, and he led a braintrust at that time consisting of himself, Ira Magaziner, the coauthor of his book, Laura D'Andrea Tyson, and Governor Bill Clinton on the whole issue of industrial competitiveness.

I just want him to know how thrilled I am that that team is now striving for industrial competitiveness with workers' rights as a part and parcel of the Administration's economic policy.

[The prepared statement of Mr. LaFalce can be found in the appendix.]

Chairman FRANK. I thank you. Let me just add one sentence. This has focused to a great extent, this issue of the rights of work-

ing people and others, has focused on the trade area, and that is important, but partial. The multilateral development banks, for instance, which this subcommittee deals with, are obviously an important forum for those kinds of questions, so this is the beginning of a serious legislative effort that I think will end up with some legislation that will govern our participation in the multilateral development banks.

Mr. McCandless.

Mr. MCCANDLESS. I would yield to the chairman's request. I think it is a good idea to hear from the Secretary.

Chairman FRANK. I thank you, and we will now hear from Secretary Reich, who has been both intellectually and governmentally one of the major figures on this very important issue. Mr. Secretary, please go ahead.

#### STATEMENT OF HON. ROBERT B. REICH, U.S. SECRETARY OF LABOR

Secretary REICH. Well, Mr. Chairman, I want to thank you for the opportunity to testify before this subcommittee. You deserve enormous credit for tackling a subject whose importance is matched only by its complexity.

This is a subject on which there is a great deal of dispute. Unfortunately, a lot of people in the media, a lot of people out in the world think that this is a dispute or a discussion between, on the one hand, free marketeers and, on the other hand, protectionists. They want to put those boxes around the positions. It is far more complicated than that.

If I have your permission, I would like to submit my testimony for the record.

Chairman FRANK. Without objection, so ordered.

Secretary REICH. And simply outline the arguments here. The issue is not free markets versus protectionism. The two extreme positions with regard to worker standards, labor standards, neither of those positions seems to me, seems to this Administration, to be very useful.

On the one extreme is the position that every developing nation should have the same labor standards as the most advanced industrial nations. Well, that is simply unrealistic. Developing nations often cannot afford and cannot be reasonably expected to achieve the same high degree of labor standards and living standards.

On the other hand, you have those at the opposite extreme that say, well, labor standards, living standards are simply none of our business. If they want to use forced labor, slave labor, regardless of the conditions of workers, regardless of the conditions of human rights, regardless of living standards, that is simply their business. We have no business in any way conditioning anything we do with them upon their standard of living or standard of worker rights. I think that most Americans would find that position equally untenable.

Those extremes should not define the debate, but unfortunately, too often those extremes do define the debate. This debate, by the way, is not a new debate. It is a debate that has been going on for many years. It has been going on at least since the Treaty of Ver-



sailles. Actually, the ILO celebrates the 50th anniversary of the Philadelphia Convention this year.

I was in Europe just a couple of weeks ago both meeting with the OECD leaders and also at the International Labour Organization, and this debate on the social clause, this debate filled the air, and, again, there were many who tried to simplify the debate and express those extreme positions. I put over here on the easel one of the recent articles. I have had a running colloquy with one national magazine over this, but this is a good example of how the debate can so easily become distorted, because what I said in a *Washington Post* article was very different from what was ultimately publicized and ultimately published by that particular magazine.

[The article referred to can be found in the appendix.]

The issue, it seems to me, comes down to several questions. Number one, what can advanced nations reasonably expect from developing nations with regard to worker standards, living standards, and that the second basic question is, having established those reasonable expectations, how do we encourage developing nations to achieve those degrees of worker rights, worker standards, and living standards?

Those are separable questions—goals, and means to achieve the goals. They are often confused and they are often put together. With regard to the question, number one, what is it that we reasonably can expect of developing nations, it seems to us that there is at least a core group of human rights worker standards that every civilized nation ought to be held accountable to, and those basics include the avoidance of slave labor, or the avoidance of forced labor, or the prevention and avoidance of the labor of very young children, the right to associate, freedom of association, the right to form unions. These basic sorts of rights, these basic sorts of standards, again, should be expectations that we have of everyone because they are so fundamental.

Beyond that, the question becomes more complicated; can we and should we expect a developing nation to offer precisely the same wages, working conditions, the same degrees of safety, the same protections across the board as the most advanced developing nations? I think that most people would say no. There is something to the developing nation argument that these kinds of standards can be afforded only to the extent that the nation is in fact developing, but, you see, central to that argument is the acknowledgment that the standards could be met and should be met as nations do develop.

In other words, there is the acknowledgment implicit in that argument that developing nations, as they gain economic growth, as they gain the ability to provide their workers and their citizens with higher worker and living standards, ought to, in fact, do so.

Now, how do we know that a developing nation is able to provide a higher and higher living standard or worker standard? Well, for one thing, we might look, for example, at the extent to which the nation is capable of making and the nation's people are capable of making an appropriate trade-off. If it is a democratic nation, we might have a greater deference to the trade-off that that nation made with regard to economic growth and living standards and

worker standards. The less democratic that nation, the less we can be confident that that trade-off is, in fact, being made appropriately, the less confidence we can have that, in fact, those living standards and working standards are growing commensurate with the potential of that country to afford them.

Now, what is our interest here? It seems to me it is very clear. Developing nations are markets for our goods to the extent that worker standards and living standards develop commensurately with those developing nations' economies, but it is not only that, obviously. Our interest is in stability around the globe.

To the extent that there is too great a gap between the well off and the poor, to the extent that the fruits of economic growth are not widely shared in a country, there is a recipe for instability, and we obviously have an interest in stability. And then there is obviously a moral concern, a justifiable moral concern.

Now, we in this Administration are very aware of the potential for a concern about worker standards, living standards, and so forth to become, if not properly handled, a pretext for protectionism. It must not be a pretext for protectionism—which gets to the second stage of the analysis. Once we have formulated an assessment of what it is appropriate to expect with regard to any individual developing nation, the next question is, well, how do you encourage that developing nation to achieve those expectations.

Trade sanctions may not always be the best vehicle. In fact, there must be an entire menu of options. There may be technical assistance that can be provided to that nation. It may be in certain cases that loans, loan guarantees, multinational development organizations such as this subcommittee deals with can also participate and should also participate in encouraging and helping developing nations provide higher living standards for their people. It may be that we have to examine very pragmatically the entire range, the entire menu of possible encouragements, and pragmatism must be a hallmark of this approach.

Multinational approaches to these issues tend to be more powerful. They tend to have a greater impact. They tend to avoid the danger of using these measures for ulterior motives, such as protecting indigenous work and domestic industries. But beyond pragmatism and multilateralism, there is also a third principle in terms of applications.

We should make sure that we consider in the context of all of the instruments that we have the best combination. In certain instances it may be that more trade, not less trade, will actually encourage a nation to move toward higher living and working standards. We must not get engaged and bind ourselves to the kind of debate that we often have in this country and have had for many years, and that is, again, whether trade must be linked to our concerns about labor standards and whether, in fact, those concerns about labor standards must be absolute and they must be put in the context of the same labor standards that every developed nation has. That is simply, again, as I have tried to emphasize, that is not an appropriate approach.

Now, some critics of the multinational approach that I have outlined predict that if the United States commits itself to a particular level of international labor standard, interest groups will use this

stance to import their narrow protectionist agendas. Now, there is some degree of validity to this worry, as I have indicated.

International trade is a highly charged issue in domestic politics, and those who want to protect domestic industries have shown themselves remarkably willing to march under a variety of banners, but this worry underestimates, in my view, the capacity of those concerned about labor standards to recognize when their good motives are being manipulated in the service of narrow causes. And, to repeat, our repertoire of responses must be expanded to give a wide range of options other than trade policy.

Finally, Mr. Chairman, members of the subcommittee, let me just say this: Developing a detailed program for advancing international labor conditions will certainly occupy us at least to century's end and beyond. I thank you, Mr. Chairman, for moving this discussion forward this morning. I hope that it does illuminate the issue and get us out of a very narrow debate that we have had up until now.

Let us waste no time in continuing this debate. It certainly will continue. Thank you.

[The prepared statement of Secretary Reich can be found in the appendix.]

Chairman FRANK. Thank you, Mr. Secretary. I hope that people will accept your advice, which is to join with us in addressing the question of how to do this. I think neither extreme is going to impose itself—even as I read some of the articles that we have seen, people will say but, of course, we don't mean this, of course, we don't mean that in the sense of prison labor. We are clearly in a situation where we have to talk about how.

Let me begin where our jurisdiction is very much involved, and that is in the lending by the multilateral development banks. It seems to me that it is very important, as you say, that we get this beyond just trade. For one thing, people's motives may be more suspect in trade.

I would hope they wouldn't be with the multilateral development banks. There is one very big difference. Trade is, at least as far as dealing with other nations, not a zero sum situation nearly as much. Loans and grants are. We have a limited amount. The World Bank, the Inter-American Development Bank, the Asian Development Bank, and so forth, none of them have enough money to lend to everybody who needs it, much less who wants it. Therefore, we have inevitably selection criteria, and that is why the case, I think, is more easily made here than in some ways even in trade, because in trade there is room for everybody and the question is, is this going to be an obstacle to someone who would otherwise get in.

With regard to the money the United States makes available on some subsidized basis, what we are saying is we can only do a certain part of the need. Then the question is should we, in deciding which fraction of the need we are going to meet, take these issues into account, and I would assume that there is a strong argument for us being able to do that.

Secretary REICH. Yes, I agree that using multilateral development banks to encourage compliance with international labor standards is entirely appropriate. That being said, obviously, I am not in a position to address the specifics of the legislation before

this subcommittee, but let me just add, this is not an unprecedented position. That is, the Omnibus Drug Act, for example, requires that the U.S. representatives to multilateral development banks vote against loans to any country that is a producer or transit country for drugs entering the United States and is not certified as cooperating with the U.S. drug control efforts. There are other examples as well.

You are correct. It is in the narrow sense a zero sum game, but let me emphasize overall that encouraging the development of higher living and working standards in other nations is not a zero sum game. That itself, that larger arena is very much of a positive sum game. We are not in the business here of protecting domestic industries. We are in the business of ensuring that the fruits of economic growth, the fruits of economic development worldwide be shared as equitably as possible, and that, in turn, creates very much of a positive sum game.

Chairman FRANK. With regard to the standards that we would be trying to get people to comply with, procedural ones are more easily conceptualized. What about substance, and, of course, you are right, no one is expecting every nation to pay the same wage level, but would some consideration of wage levels with appropriate differentials, ranges somehow geared to per capita income, would that be something to look at?

Secretary REICH. Again, with regard to the goals, I want to separate for our purposes and I think it should be separated what are reasonable goals from how we encourage nations to achieve those goals. It seems to me a reasonable goal, as we had in our dealings with Mexico, you remember under the North American Free Trade Act and pursuant to the side agreements and also our additional agreement with Mexico that Mexican minimum wages would move up according to economic growth.

That was not officially part of the side agreement, but that was an agreement that Mexico came to with us in pursuit of NAFTA. It seems to me that it is entirely reasonable to expect movement in the direction of higher worker and living standards for a population in general. As long as there is movement in that direction, I would avoid trying to dictate or even trying to assert an expectation with regard to a specific living standard or a specific working standard apart from the core issues that I suggested as long as there is movement and continuous movement toward higher and higher living and working standards as an economy continues to grow.

Chairman FRANK. I appreciate it. Let me get to one substantive issue. I read recently an article by Robert Morris, who is the Senior Vice President of U.S. Council for International Business. I notice it is attached to some of the testimony we may get into a little later on, and Mr. Morris made a statement that I found somewhat surprising.

He says on page 9 of that statement, which I think was distributed as part of Mr. Katz's testimony, that "[i]n fact, the weight of both evidence and experience suggests that the higher the level of such standards [labor standards], the *more* competitive and prosperous is a society or its enterprises which compete in the global economy." That is, he was dealing with the argument that "most

of us in the business community believe that, as a general principle, the denial of workers' rights, apart from the use of prison labor to produce goods for export, does *not* confer a competitive advantage, either on countries or companies."

In fact, the weight of the evidence is "the higher the level of such standards, the *more* competitive and prosperous is a society or its enterprises..." Now, I am surprised because in my reading of domestic American disputes, I don't remember the time a company said we are out here to raise your wages and give you better rights because we want to be more competitive. I must have missed the day that was in the paper.

It did seem to me in suggesting that higher standards, better working conditions in the context here of wages and workers' rights, I had not previously seen a leading corporate spokesman say that this was good for the individual enterprise, and I am wondering what your own sense is.

Is this the case and if we get these countries to raise their wages and have unions, would that be bad for us competitively?

Secretary REICH. Mr. Chairman, obviously, there is a legitimate issue here as to what a nation can afford. Now, again, I want to put that into context. We do have evidence that as nations spread the benefits of economic growth more equitably, as they generate higher living standards and working standards, provide a safer and healthier working environment, for example, that productivity does improve. The cause and effect moves and tends to move in both directions.

Now, there is perhaps, and I think there is some legitimacy to the argument that a developing nation cannot simply afford a certain degree of living and working standards that may be appropriate to the most advanced industrial nation simply because the nation may not have those kinds of resources, but it is interesting in light of what you just said to reflect a little bit upon the experience we have had in the United States.

We are seeing, for example, that companies which train their workers, provide their workers a greater degree of participation, treat their workers better as assets to be developed rather than as costs to be cut, those companies tend to do better over the longer term, have higher productivity and be more profitable, and that reality has not escaped some of our larger institutional investors. Indeed, just within the last 10 days the California Public Employee Pension Fund, the largest in the country, 80 billion dollars' worth, announced publicly that they would from here on use as one key performance criterion of the companies they engage with how workers were being treated with regard to training and participation. So even the market, even the private market, is beginning to wake up to the fact that there is a correlation here within broad limits.

Chairman FRANK. So that—I will end my questioning now—if you happen to be in a State legislature and you are talking about some worker rights issue or if you are the employees of a particular company and you are thinking about joining a labor union and people tell you it would be bad for the State's economy, you could cite to them the fact that most people in the business community think the opposite; that the more worker rights you have, the better the

company will be and the more competitive, because that is what this man says?

Secretary REICH. I wish I could say that.

Chairman FRANK. That is what this man says the business community believes. Apparently, this is the problem. Apparently, they only say that in foreign languages because this is their advice overseas so this is the first time, I guess, I have ever seen this in English, because I cannot recall previous statements by the business community that workers' standards should be raised in the interest of the company's competitive position.

Mr. McCandless.

Mr. MCCANDLESS. Thank you, Mr. Chairman. Mr. Secretary, thank you for being with us this morning. I have some real problems with the theoretical aspect of your presentation. We are talking here about sovereign nations that have many things that are totally different from our society beginning with religion. Their religious ideology says certain things. The mores and customs and the social structure of a country dictates the relationship between husband and wife, for example, which might be totally unacceptable in our society, but an accepted fact there. We look at this picture, and I would say that that picture is something I would not like to see, but in reality if we go back to, say, 1870 in Kansas on a wheat farm, the way they were able to produce that wheat was to raise children, and so in my father's case he was one of eight. They were milking cows in the morning at age 10 by kerosene light. They don't do that anymore, obviously, because we have, through an evolutionary process, improved our standards of living.

In my opinion, this is the kind of thing which over a period of time the evolutionary process, absent the religious aspect, will take place in these countries, but when we talk about we are going to make over these countries in our eyes and minds and social structure or we are not going—and I am using the extreme here to illustrate the point—or we are not going to trade with them is, to me, like cutting off our nose to spite our face. They will, as time passes, improve.

If there is a requirement for a social upheaval, it will take place. The second of two series last night on the Civil War demonstrated that dramatically and what the cost to the United States of that social structure change was. I would hope that we don't tie some conditions to what it is a country has to have before we can trade with them, and let me conclude by saying that if there is one thing here that I have trouble with, it is the fact that we do not seem to distinguish, we do not seem to take this same attitude, idea, or approach to the people we give foreign aid to and have given foreign aid year, after year, after year, no criteria or standard of living or any of the other factors. I have been on my soapbox now for about 1½ minutes or 2 minutes, so I would ask if you have any response.

Chairman FRANK. Would the gentleman yield for 30 seconds?

Mr. MCCANDLESS. Yes.

Chairman FRANK. I just want to point out, remember the purpose of this hearing is, in fact, to apply it to foreign aid in a form. The purpose of this hearing is to talk about that part of our foreign

aid that goes through the multilateral institutions, so I just want to say that that is—

Mr. MCCANDLESS. I refer to foreign aid as foreign aid unilaterally from the United States and which has taken place for years and years and years to the very countries that we are talking about, Bangladesh and the sub-Saharan African countries.

Chairman FRANK. Many of us would agree with that. It is just a question of jurisdiction.

Secretary REICH. Congressman, if I may, you said that you are using the extreme in order to make the point just now, and I think that you did and you did in a very highly articulate way, but the problem is in this area, it is the extremes that are being used to make a point.

What I have argued here is that apart from a certain core of human rights values which I think we would all agree are very basic to a civilized society, such as the avoidance of prison labor and forced labor and so forth that the precise standard of a developing nation with regard to worker standards and living standards that we feel is appropriate to expect them to achieve would rise developmentally as they gain the capacity to achieve them.

The question of how we use our various instruments to encourage that is a separate question. Foreign aid may very well be one of those instruments. Trade may be, sometimes more trade rather than less trade may be an instrument. The multilateral development banks may be an instrument. Technological assistance may be an instrument.

The second point I want to make is this: We do have an interest. You suggested that what they do is pretty much their business. If there is a need for social upheaval, I think you said, that will take place, but that, again, underscores my argument. We have an interest in two respects.

First, we have an interest in stability around the globe. Obviously, where there is social upheaval, it is not often simply a matter of domestic social upheaval. There tend to be spillovers with regard to social upheaval around the globe, but; second, we have an interest in creating and inducing and encouraging buoyant markets around the globe.

To the extent that development means a buoyant market, to the extent that the fruits of economic growth are spread more widely, that means we have more export markets for ourselves. These are not entirely—I would like to say that our interest is entirely moral. It is not entirely moral. These are selfish concerns that have to do with our own national interest.

Mr. MCCANDLESS. Let me conclude, Mr. Chairman. You have been very, very kind with the time. I would hope that we would not tie a bunch of kite tails to some trade agreement in terms of what has to be there in the way of labor conditions and/or the environment because we are really going to kill our own goose that lays the golden egg. Thank you, Mr. Chairman.

Chairman FRANK. I thank the gentleman. I would just point out again, it has always been my intention that this would not single out trade, but would cover bilateral foreign aid. As the gentleman from New York pointed out, unilateral foreign aid is kind of hard to envision. Bilateral foreign aid, multilateral foreign aid, anything

where we are engaged in these financial transactions; in fact, one of the things I was hoping to do was to broaden this beyond trade because our jurisdiction is primarily over multilateral development assistance. The gentleman from New York.

Mr. LAFALCE. I thank the chairman.

Mr. Secretary, I think this is one of the most important issues for the Administration, for the Congress to consider not simply for this year, but for the next several decades. We often deal with the rights of capital and the business community and the Administrations and the Congress have tied themselves up in knots for years and years and years discussing the finer points of the rights of capital, but very inadequate concern to the equally important and compatible rights of labor.

I come to this as a product of my entire conceptual background, imbued with the principles of *Rerum Novarum*, *Quadragesimo Anno*, *Centesimus Annus*, all of which say we are not dealing with something that is an academic right. We are dealing with something that is a God-given basic right; the right of every human being to a job, the right of every human being who has a job to a just wage, the right of every human being who has a job to just working conditions, the right of every human being who has a job to associate with fellow workers and bargain collectively. These are basic principles.

Were it not for John Paul II—you say of what validity is *Rerum Novarum*, *Quadragesimo Anno*, and so forth, were it not for John Paul II and Lane Kirkland, Lech Walesa would not have been able to rise, Solidarity would not have been able to rise as it did in Poland, and we would not have witnessed the demise of communism, in my judgment, perhaps the temporary demise of communism. We don't know what the future is going to bring.

In large part it depends on how adequately we are going to be able to satisfy the basic rights of workers around the globe. I agree with you 100 percent, pragmatic approach, a multilateral or bilateral, as the case may be, approach, and some appropriate combination involving perhaps more trade. If I have a quarrel with the Administration, it is that this Administration has not yet gone far enough. We are at the beginning. We had some collateral agreements on NAFTA. They were inadequate, but they were a beginning.

This, though, is a very special year. It is the 75th anniversary of the International Labour Organization, and I asked a friend of mine, Pogo, how we should proceed on this issue, and his advice is always terrific and he said begin with yourself. The United States still has not ratified the core conventions of the ILO. Of the 174 ILO conventions, the United States has not even ratified one of the core which are the fundamental tenets of labor rights. We have not ratified conventions on forced labor. We have not ratified the conventions on freedom of association. We have not ratified the conventions on the right to organize and bargain collectively or on the minimum wage or on child labor.

When is the Administration going to submit to the U.S. Senate ratification measures of those basic core rights?

Secretary REICH. Congressman, let me just say several things with regard to that. Most U.S. law and practice is entirely consist-



ent with ILO conventions, and that is a very basic point. Yes, we are moving toward ratification of more of those conventions, but we are already there in terms of at least our law and practice. Even in the absence of formal U.S. ratification, the United States has demonstrated on many occasions that our law and practice meets or exceeds virtually every International Labour Organization Convention.

Now, for example, the U.S. law that guarantees workers freedom of association and the constitutional provisions, the right to organize and bargain collectively largely in line with ILO conventions number 87 and 98—

Mr. LAFALCE. I understand all that, but why haven't we then taken the simple step of ratifying? It would give us so much more standing, so much more moral sanction within the ILO and the international fora.

Secretary REICH. Well, let me say that since 1988 the United States has ratified four ILO conventions, including convention 105 concerning the abolition of forced labor, which is one of the ILO's key worker and human rights standards.

I have just recommended to the President that he seek Senate advice and consent to ratify ILO convention number 150 concerning labor administration, and there are right now tripartite discussions going on regarding convention number 111 on discrimination in employment.

In the early 1980s, as you know, the United States established a tripartite mechanism to expedite and to assure that we would be assessing the feasibility of these conventions, and I believe that we will be doing more of them.

Chairman FRANK. Mrs. Roukema.

Mrs. ROUKEMA. No questions.

Chairman FRANK. Mr. Watt.

Mr. WATT. Mr. Chairman, I don't think I have any questions. Thank you.

Chairman FRANK. Mr. Kanjorski.

Mr. KANJORSKI. Thank you, Mr. Chairman. Mr. Secretary, I appreciate the fact that Mr. McCandless believes that the capital should be protected in the world, but perhaps they interfere with the jurisdictions of countries. As a result the labor would be an intrusion. I don't agree with that. But I think we are faced with NAFTA and the GATT agreement coming up of asking the question of whether or not there is a value of other countries having access to the American market, and I happen to think that is probably our strongest tool, since we are the largest consumer in the world and potentially will be that for a number of years.

What would the Administration's position be if the Congress were to attach conditions to our voting on international banking operations, that we require certain minimum labor standards, environmental standards, and consumer safety standards, and projecting them out in the future?

What I am particularly addressing is an amendment we prepared for tomorrow's markup. We tried to recognize that we make significant contributions by offering votes to support loans to countries around the world. It seems to me we have to send a message to these countries that our intentions to protect labor values are just

as important as our protection of capital values, and that our delegates should be instructed to support only those projects and vote for only those projects where the country receiving the funds would at some time make a commitment to adhere to some basic conditions.

What would the Administration's position be on that?

Secretary REICH. Congressman, let me just say several things. First of all, I am not now in a position to comment on any specific legislation before the subcommittee, and I cannot discuss the Administration's views on that, but let me say in general I do agree that using multilateral development banks to encourage compliance with the basic core standards that I articulated, but also to encourage continued economic development in terms of worker standards, labor standards, and also living standards, that that is an appropriate function.

We ought to consider an entire menu of tools we have at our disposal, both carrots and sticks to encourage developing nations to move along the path that most developing nations are already moving, and that is of continuous development, beyond the core labor standards that we have already talked about that every civilized nation should embrace toward ever higher worker standards and living standards as those economies continue to grow.

Chairman FRANK. Mr. Sanders.

Mr. SANDERS. Thank you, Mr. Chairman, and thank you very much for holding what I consider to be an extremely important hearing. As you know, in subcommittee I offered an amendment which was accepted by the subcommittee which states the following. It deals largely with what Mr. Kanjorski was just talking about. "The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to, one, use the voice and vote of the United States to urge the respective institution to adopt policies to encourage borrowing countries to guarantee internationally recognized worker rights within the meaning of section 502(a)4 of the Trade Act of 1974."

I think what we are talking about here is an issue of enormous consequence, and let's be clear that it does not only have to do with what is happening in developing countries all over the world where children are exploited or in China where workers work for 12 cents an hour or where there is slave labor. What we are talking about very clearly is an issue affecting the American working people.

I appreciate much of what the Secretary has said, but I must tell you that I have deep concerns about the so-called global economy when American workers are being asked to compete against people who cannot form trade unions, who are working for horrendous wages, where child labor is exploited. It is wrong to ask an American worker to be competing against somebody in China who is making 12 cents an hour.

What we are talking about here is not some kind of academic problem. Let's get down to earth and understand what we are talking about. We are talking about that in the last 5 years, tens of billions of dollars have been invested by American multinational corporations in China and in other third world countries, and they are not going to those countries because they like the climate or

they want to learn about Far Eastern culture. We all understand why they are going to those countries.

They are going to those countries because you can make more money paying somebody 15 cents an hour or 20 cents an hour. You can make more money when workers who try to organize are thrown in jail than you can by reinvesting in America. Frankly, I think it is a damn shame and at the root of the decline of our standard of living that multinational corporations are turning their backs on American workers and have gone all over the world in search of slave labor or labor that is forced to work for extremely low wages. And in my view, forget for a moment what is going on in the third world, in my view, if we do not begin to get a handle on that issue, we are going to continue to see a major decline in our standard of living.

The issue is not only the loss of jobs, and it is amazing to me, and I found it interesting that Mr. Frank mentioned this quote from some corporate guy who thinks it is so good for workers to be able to organize or have worker rights. We are not talking about this. We don't talk about this issue. Let's talk about love of country and patriotism and companies like Nike and many, many others that leave the United States for slave labor in the third world.

We are not only talking about the loss of jobs. What we are talking about equally important is the decline in wages in America; production workers today are being paid 20 percent less than they were 20 years ago. Why is that? Because companies are telling workers that if you don't want a 10 percent reduction in your wage next contract, we are going to Mexico, we are going to China.

Now, how you deal with that is not easy. It is strictly business, I recognize that, but unless we begin to tell corporate America that they cannot throw our people out on the street and head for the third world for labor from very, very desperate people, I believe that our standard of living will continue to decline.

Mr. Secretary, I would like you to comment, but I appreciate very much many of the comments that you have made today. What is your view, frankly, about the multinational corporations who are running to China for labor that pays 15 cents an hour while at the same time throwing American workers out on the street?

Secretary REICH. Congressman, let me say several things. First of all, I do draw a distinction between two different conditions you mentioned. I don't think there is any excuse for slave labor, for forced labor, for any of the conditions which I, in my testimony and in our discussion, have put in the core human rights area. I think we can expect and should expect and should in many cases demand with all the resources at our command. It may be trade, it may not be trade sometimes. It may be other resources.

We should insist and also encourage countries to move out away from those kinds of abrogations of core labor rights and core labor standards, but I would distinguish that from low wages, low wages per se. There may be places around the globe that are simply very poor, where all that can be afforded is basically low wages, and the entire history of open markets, free trade, the entire history of the United States with regard, over the last 200 years, with regard to gradually opening markets, certainly the history in post World War II, history can be seen as one in which it is not a zero sum game,

as mathematicians would say, in which one nation's gain of jobs is at the expense necessarily of ours.

In fact, if anything, we have seen that it can be a positive sum game, because as these poorer nations gain the capacity to become more economically powerful, they also gain the capacity to import our goods.

There can be a virtuous cycle created, and we have seen that again and again. There are not a fixed number of jobs in the world to be parceled out around nations. In fact, there are not a fixed number of good jobs. There is no natural limit to the ingenuity of the human mind. There is no natural limit to the amount of needs that need to be met.

Mr. SANDERS. Secretary, if I may jump in and ask you—

Secretary REICH. I will finish in just one moment, I promise. As economies develop, they create markets. As those markets are created, they create more job opportunities here, but I want to also refer to your final point, and that is the reason for declining wages in the United States.

First of all, it is important to note that on average, wages over the past 15 years in the United States have stagnated, for many Americans they have declined. For some Americans they have increased substantially. In fact, what we are seeing is a bifurcation of the wage force in the United States to an extent that we have never seen it before happening very, very rapidly. Is that because of international trade? No. It is because largely of a shift, a very profound shift in demand, in favor of workers with education and skills against workers without education and skills. It is happening in every advanced nation.

If you are college educated, if you understand how to utilize new technologies, you can take advantage of a global market and technologies and do better and better.

Mr. SANDERS. You and I discussed this at Harvard several years ago, right, and we are probably still in disagreement, but deal with this one question which you didn't deal with. I understand that there are countries in the world where people earn very little money, and it is not my job or your job to condemn poor countries. That is not what we are doing.

Tell me about—morality is not a word we should use in this building too often. Tell me about the good public policy of allowing our major corporations to be investing tens of billions of dollars in those countries to exploit labor that pays 15 or 20 cents an hour when mayors and governors are getting down on their hands and knees in this country begging for investment in their communities, what about that?

Secretary REICH. Well, when you use the verb "exploit," I think that that is one of the problems in this kind of a dialogue. With all due respect, Congressman, the NAFTA debate was a very heated, contentious, difficult debate for all of us, and many in Congress, many in the Administration spent a great deal of time worrying over that, fretting over that, but has there been a giant sucking sound from the south? There has been, but that is the sucking sound of American products going south, not American jobs going south, and I can tell you because we administer at the Department

of Labor the NAFTA Agreement with regard to jobs and readjustment, a little over 4,000 since January 1.

Mr. SANDERS. With all due respect, Mr. Secretary, what we are seeing, we can argue the statistics back and forth. I don't accept that. What I know is the young people who are coming on to the labor market now coming out of the Commerce Department are working for 25 percent less than was the case 10 years ago.

Let's be frank and understand that the major crisis in the economy, not for all workers, but for the vast majority of workers, is that our standard of living is going down. More and more people are working in poverty and I cannot believe that there is not a correlation between that reality and the fact the corporations have disinvested in this country and have headed to the third world for wages which are extremely low. I think that is a major problem, and I think not to deal with that is to be very shortsighted.

Chairman FRANK. Mr. Reich, why don't you respond, then we will go on.

Secretary REICH. Again, Congressman, the central problem we face with regard to a gap that is growing here between the well-educated and the poorly educated is the problem of a shift in demand, a shift in demand toward those with education and against those without education. The educational premium, if you will, the return on education, the return on skills is growing. You can see it in terms of that enormous disparity. That is proof that the return on skills, the return on education is growing.

Why is the return on education and skills growing? It is growing for several reasons, and I alluded to them. One, because of technology. More than half of all workers now in the United States use a computer at work. If you have a college degree, 70 percent of people with college degrees are using computers. Only 10 percent of workers who don't even have high school degrees are using computers. There is a greater and greater disparity. Even if we put a wall around the United States and had no trade with anybody else, we would see that telephone operators would be replaced by automatic switching equipment, that bank tellers would be replaced by automatic teller machines, that gas station attendants would be replaced by self-service gas stations.

You can see in the service sector of this economy precisely the same trend that you were seeing in the manufacturing sector. I am not saying that international trade is irrelevant. International trade, to the contrary, is exacerbating the same trends, but the trends are there regardless, and the answer is not to wall us off. The answer is not to reduce trade. The answer is not to prevent developing nations from getting the capital they need to become major importers of our goods and services.

The answer is to ensure, as we are not doing, that every American has the capacity to take advantage of new export markets and of technologies and that every young American and every person who has been laid off from a job has the opportunity to get the skills needed to fully become a productive citizen.

Chairman FRANK. Mr. Kennedy.

Mr. KENNEDY. Thank you, Secretary Reich. First of all, I realize that—I have been informed by the staff up here that you have got to leave so I will try to be reasonably short.

Obviously, I want to welcome you to the subcommittee this morning and a couple of quick comments on just the exchanges I have heard. One is that I visited Mexico a few months ago and it became apparent that despite much of the negotiation that took place over the NAFTA to improve certain, for instance, environmental standards in Mexico, what we have seen is, in fact, Japanese, German, and French companies moving in to fill the very needs created by the United States with Mexico to improve the kind of overall standard of living for the Mexican people, so despite your good efforts and the efforts of this Administration to actually raise the standards of living in that country, the jobs end up going in many cases to other foreign nationals, not to the United States.

I bring that up as an observation of something that I believe we ought to be able to do something about. I know that you can cite all the Department of Commerce programs and say we are going to do this, that and the other thing, but you know and I know that there is the need to have some kind of acutely coordinated policy that begins to allow smaller U.S. companies that have technological breakthroughs that could create good jobs, high-skilled, high wage jobs for people around the United States to fill these voids that exist in a great many nations around the world. It is something that we are not still doing very well, in my opinion, number one, and second, if you have a minute or have a particular thought on how the GATT is going to impact some of these issues, I would just appreciate your thoughts on both of those questions.

Secretary REICH. Congressman, just a couple of points. Number one, you are undoubtedly correct, and I indicated in my opening statement that multilateral approaches to these issues are, generally speaking, better than bilateral or unilateral approaches for the very reason you suggested, that they are easier and better to enforce.

It is often possible for other nations to circumvent bilateral agreements and I don't have the information you do on Mexico, but there are other places around the world where there have been bilateral efforts, but that have been circumvented by parties that are not party to those efforts, and, again, we are living in an environment in which it is very difficult to separate, as we have talked about before, the nationality of companies from the flows of capital from the possibilities of production all around the globe. So multilateralism is better.

Second, let me just say with regard to helping the American economy and helping American citizens gain a foothold, it seems to me there are three issues here. One we talked about a moment ago and that is education, training, skill preparation. The Administration has already successfully, with the help of many of you, got into place Goals 2000, the School-to-Work Opportunities Act, direct student lending, the earned income tax credit, the beginnings of an unemployment and to reemployment insurance system and many other workplace changes that make workers not only more flexible, but give them the education and skills they need. We are just beginning; a long, long way to go.

Technology, technological advancements, the ability of small businesses to fill niches to help develop new industries, yes, I think

that is also an Administration priority. It is a priority of many people around on the subcommittee.

Mr. KENNEDY. Bob, if I could just interrupt briefly, the fact is that you more than anyone in this country were an advocate of some kind of centralized government planning for developing a plan of attack so that the United States could go out and compete internationally. Now, here you have in Mexico and in many other countries around the world an acute demand for environmental technology, and yet there is no response or very little response of our government to move in despite the fact that we are number one in a whole range of environmental technologies around, in terms of whether or not you want to clean up the water, you want to clean up your air, you want to clean up your land.

We have got the technologies and yet we are not generating the business and the jobs. Now, something is breaking down, and it isn't just education and training. There is something else that is not happening which is the transfer of those technologies that we have into the very needs that these foreign governments are now demanding and somehow I think that we have got to work on how to coordinate a response in a much more effective manner.

Secretary REICH. Congressman, one of the most unkind things you have ever said to me is that I was an advocate of centralized planning, and I hope you strike that from the record.

Mr. KENNEDY. I take that as a compliment myself, but anyway.

Secretary REICH. With regard to technology transfer, I couldn't agree with you more. We do have the TRP Program and several other programs already in motion. The Defense Department, Commerce Department, and several of us in the Labor Department are involved. Is it enough? Well, I don't think any of it is enough.

The President's 1995 budget is up here seeking additional funding for education, for job training, for technological advances, for the entire investment initiative, and it is, as they say, in your hands. We will see how much actually comes out.

Let me just mention one other aspect of it. Technology in the form of blueprints and plans very easily migrates across borders. In fact, I have seen again and again the best blueprints, the best plans, the best technology go from a computer in the United States up to a satellite down to a computer in another nation in split seconds. When we are talking about technology in the sense that you and I are, I believe we are talking about the capacities of individuals in the United States to continuously invent and innovate. It is embedded technology in their heads rather than plans and blueprints, and that is what we have to develop and that is why I keep coming back to education and training. It is the technological competencies of a work force that stay here. The blueprints and the plans go all over the world.

Finally, there is a responsibility on the part of American business that is not, in my view, being fulfilled in terms of training and developing the American work force. I was talking recently to one of the ministers from Germany who told me that German firms voluntarily, this is not by law, voluntarily are providing their workers with an extraordinary amount, multiples of the percentage of payroll that American firms are offering their workers with regard to training and development on the job. And then I asked this Ger-

man minister what about U.S. firms in Germany, and he said, oh, well, U.S. firms in Germany are doing precisely the same thing. They are offering much more on-the-job incumbent training and work force and skill development than those same U.S. firms are doing in the United States.

It is not entirely government responsibility. It is also the responsibility of the private sector to make sure that Americans, Americans, not American capital, not American technology, Americans are competitive.

Mr. KENNEDY. OK, thank you, Mr. Chairman. Would an industrial policy have satisfied you more than central planning, Mr. Secretary?

Secretary REICH. I will buy on to industrial policy.

Mr. KENNEDY. Thank you very much.

Chairman FRANK. Mr. Secretary, we appreciate your being here. I would tell you from the interest we have on this subcommittee there is a strong desire to take the kind of concepts you have been talking about and translate them into some form of statute, so we will be working with you on the question of how to do that. I appreciate your being here, and I know you have to leave.

Next, we will have our colleague, Congressman Peter Visclosky, who has filed related legislation and has been very interested in this, and we are delighted to have Mr. Visclosky come before us.

#### **STATEMENT OF HON. PETER J. VISCLOSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA**

Mr. VISCLOSKY. Thank you, Mr. Chairman. I would ask that my entire statement be entered into the record.

Chairman FRANK. Without objection, so ordered. Give us a second for the entourage to depart. Go ahead, Mr. Visclosky.

Mr. VISCLOSKY. Mr. Chairman, I appreciate the fact that the subcommittee is holding hearings today on the issue of international worker rights and labor standards. I am also pleased that the subcommittee is looking at the issue not only in terms of trade, as we have focused on it in the past with NAFTA as well as GATT, a subject I will discuss shortly, but also as far as our relationship with multilateral development, whether it is the World Bank, IMF, the African Development Bank, or others.

Mr. Chairman, again I thank you very much for the opportunity and am here today to focus the subcommittee's attention on legislation that I have introduced directing the President to seek the establishment of a working party on worker rights and international labor standards within the GATT as well as a standing committee on this issue within the World Trade Organization when it comes into being next year.

The bill is H.R. 4271 and it has 72 cosponsors and sponsors on both sides of the political aisle, I might add. I commend the President and the U.S. Trade Representative, Mickey Kantor, as well as the Secretary of Labor for expressing their support for addressing worker rights through the GATT and World Trade Organization.

In January of this year, President Clinton and the leaders of the European union discussed the next generation of trade issues to be dealt with as the successor agenda of the Uruguay Round of the



GATT. The President specifically identified labor standards as something that must be addressed.

With the support of the President, Ambassador Kantor worked tirelessly to convince our trading partners to establish a working party on worker rights and labor standards. Unfortunately, the Marrakesh Ministerial Declaration signed in Morocco on April 15 did not provide for the establishment of a GATT working party or WTO standing committee on this issue because of strong foreign opposition to talking about the relationship between the trading system and internationally recognized labor standards.

Instead, an 11th hour agreement was reached whereby countries will be able to raise new issues, including labor standards in the preparatory committee which is charged with establishing the agenda of the WTO. While this small step forward is better than nothing, it does not guarantee that a working party or standing committee on worker rights will be established within the GATT or WTO.

Many of our trading partners objected to the creation of a GATT working party on worker rights claiming it was a new issue. However, linking respect for worker rights and labor standards is not new and it is not a radical concept in the United States or international policy discussions.

Indeed, for nearly 50 years the GATT has turned a deaf ear to addressing worker rights and labor standards despite repeated entreaties from the U.S. trade negotiators in both Democratic and Republican administrations.

In 1988, the United States formally proposed for the first time during the Uruguay Round of GATT a working party on worker rights and trade. The purpose of this working party would have been to clearly establish that it is unjustifiable for any country or any of its industries to seek to gain competitive advantage in international trade through the systematic denial of fundamental internationally recognized worker rights.

It would not have been within the purview of this working party to consider the comparative advantage that many developing countries with sizable numbers of underemployed workers or unemployed individuals derive from lower unit labor costs in different modes of production.

The objectives of the proposed working party were to explore ways in which to link the conduct of international trade to respect for those fundamental worker rights, including the freedom of association, the right to organize and bargain collectively and the prohibition of force or compulsory labor which empowers workers everywhere to help themselves and to share more fully in the benefits of trade within countries as well as among them.

I would point out that the imposition of uniform labor standards such as wages and hours was not an objective. Last April in Marrakesh the international community once again balked at a golden opportunity to examine the relationship between the global trading system and internationally recognized labor standards through a working party in the GATT and a standing committee in the WTO. Now more than ever it is up to the United States to take a decisive leadership role and insist that this long neglected issue be addressed.

Mr. Chairman, that concludes my prepared remarks. I would simply reference the testimony that was provided by the Secretary of Labor. He indicated the inclusion of worker rights as a side bar to the North American Free Trade Agreement and also in his discussion talked about core worker rights issues as well as those that are not so evident to most people. My sense of this is that if people such as yourself and the subcommittee you chair do not press the issue and press the Administration to be vigorous, whether it is in the area of trade or whether it is our conduct with multilateral lending institutions, we are not going to see progress on this very important issue; if nothing else, then coming to grips with definitions on some of those core issues that ought to be prohibited in the future.

[The prepared statement of Mr. Visclosky can be found in the appendix.]

Chairman FRANK. Thank you, and I do intend to press to the extent I am able, I think this is a case, frankly, where we are, if we are successful, going to rescue some of our friends in the business community from their own shortsightedness.

We went through last year the most bitter political debate I can remember in the United States in my time in Congress, and that was NAFTA. I would not have expected that, and I don't think many of us did, but that took on a degree of class war overtone, it had a degree of emotionalism, it produced more overstatement on all sides. It was a terribly disruptive issue, and what many of us are trying to do is to deal with the kind of tensions that lead to that. The bifurcation the Secretary talked about fed into that.

What you have in particular, many people in the United States who have a fundamental commitment to continuing to improve the standard of living of the people who are on the wrong end of the Secretary's bifurcation that he described accurately, but who at the same time want to see social progress in the rest of the world, and we are looking very much for a situation where we can avoid people feeling that American workers are pitted against foreign workers.

John Kennedy said, I think it may have been when he was doing the Alliance for Progress, I don't remember, that Franklin Roosevelt was able to be a good neighbor abroad because he was a good neighbor at home, and that is the point we are trying to get across, that there is a linkage on these things.

Now, people should understand the background of NAFTA. I said I would defer my opening statement because the Secretary was in a hurry. Maybe it is a good thing that we hadn't ratified the International Labour Organization standards on the right to organize collectively because under the Reagan years with the National Labor Relations Board acting the way it did, we probably would have been found in violation of them because under Ronald Reagan the National Labor Relations Board stopped functioning, the Wagner Act was de facto repealed by a strategy of delay and a lack of any kind of effective sanction.

What we are now trying to do is to revive those things in the context of the global economy, and obviously there are dangers that people will use it for inappropriate protectionist purposes, there are dangers that people will misuse it.

I must say, though, as I look at the history internationally of the effort to use standards, whether it be human rights or anything else, it is like any antidiscrimination legislation at home; the experience is that these things are far more likely to be under-enforced than over-enforced.

I don't think anyone can look at the history of efforts to establish international standards without recognizing that what has changed is a greater degree of global competition and interaction. I would subscribe to the Secretary's description that international trade is by no means the single or even the greatest cause of this problem, but it is an exacerbating factor, and dealing with exacerbating factors is one of our concerns. So I think there is overwhelming desire on the part of many on our side of the aisle here to find a way to mediate the kind of clash of values that we saw in NAFTA, and what we are trying to do is see whether an effort by America to improve the standards of living elsewhere can't be part of that.

One thing I do want to deal with, especially in the context of the multilateral organizations, is that any suggestion that we have somehow interfered with the sovereignty of other nations—if we make this part of our voting instructions to our representatives to the World Bank, and so forth, or if we make it part of our bilateral foreign aid, which I am also in favor of—comes very late. The IMF and the World Bank have spent a lot of time disregarding the sovereignty of developing countries. When you start telling people about their budgets, the World Bank and the IMF have gotten into countries' budgets with a degree of specificity that is truly impressive.

Now, people can argue whether they have been right or wrong on the substance, but no one can argue that they have imposed their will on things that come within the normal rules of sovereignty. To argue that it is somehow a violation of sovereignty, to tell them that they should allow workers to organize, but it is not a violation of sovereignty to tell them what the level of agricultural subsidy should be or how much of their budget should go for this or that or the other thing just doesn't make any sense, it is not an intellectually respectable argument.

I understand in politics the need to kind of come up with arguments you don't really mean, but I would urge people to follow a rule of thumb, do not use an argument that you don't really mean that is not going to persuade anybody; that is just a waste of time, and this argument about sovereignty is a total waste of time. There is nobody around who in fact consistently applies it.

The question ought to be do standards work, are there ways to enforce them, what are the reasonable standards. Those we will be dealing with, but I think, as I talk to my colleagues here, as I saw what happened with the amendment that was offered by our colleague from Vermont at our hearing, you are going to see an increasing determination among many in Congress to take this notion of labor standards and environmental standards and other fundamental issues and write them into our economic relations with the rest of the world in trade, in the GSP, in the multilateral institutions, in foreign aid, and the question is going to be do we do it wisely or not, and people ought to be on notice that is something they should participate in.

Mr. McCandless.

Mr. McCANDLESS. Thank you, Mr. Chairman. I don't have any questions for the Congressman.

Chairman FRANK. Neither did I.

Mr. Watt.

Mr. WATT. Mr. Chairman, I don't have any questions nor do I have a statement.

Chairman FRANK. Mr. Fingerhut.

Mr. FINGERHUT. Mr. Chairman, I would just very briefly, since I missed the earlier part of the hearing, want to say how pleased I am that the subcommittee is taking up the subject and recognizing we have a long way to go, also commend Mr. Visclosky for his contribution.

Let me just ask one question. All of these discussions de facto exclude wages and hours, yet when we are into the actual debates on trade agreements like NAFTA, for example, that is really the central focus. I mean when we were talking about whether or not our businesses would be competing on a level playing field with those in Mexico, for example, in the NAFTA debate, exhibit A is always the relative hourly wages for work that frankly is at a school level where comparable people and comparable countries could probably do about the same thing.

I guess that I am not sure exactly what the question is except to say that is there a place anywhere in these discussions that you are promoting, and which I am supportive of and what the subcommittee is talking about, to ask the question about jobs that leave our country paying \$7 an hour and go to another country paying 41 cents an hour, and then those people will wind up earning a little bit more as that country gets more developed, and then the job will move on to someplace else.

Is there a way that we can try and get our hands around that problem or do we just have to say that is the marketplace?

Mr. VISCLOSKY. I think it is, and of course, the Secretary just a bit earlier talked about the increase in trade going to Mexico. Well, a large component of the increase of our exports to Mexico since GATT came in, and of course, a lot of these orders were also engaged before the agreement was entered into, were for parts so that people in Mexico could put something together again, so I am still not necessarily persuaded.

As far as getting very specific on wage rates, that is certainly not the goal of my endeavor. My point would be that for years the international community has simply refused to talk about standards themselves, about wage rates. I am not looking for a miracle or for that magic wage. That may make no sense.

I think the Secretary in his testimony today talked about us having to be very pragmatic. I think you have to establish that working party, and then that standing committee within the World Trade Organization. I think through the endeavors of this subcommittee, you have to put pressure on the international organizations so they engage in that discussion as far as international standards and improving that standard of living which eventually begins to raise that wage rate.

I think in those early discussions and the Secretary in an op-ed piece in the *Washington Post* on May 22 talked about some core is-

sues that almost everyone can agree on—slave labor, child labor under a certain age, just almost anyone on this planet would say that that is wrong.

Well, let's have a real definition of that. Let's find those few specific areas where we can agree immediately. Let's not engage in those labor practices anymore, and therein begin to increase those standards and thereby increase the wage rate.

I also think this is one of those rare opportunities in Washington where it is not only the right thing to do, but it is in our self-interest.

Mr. FINGERHUT. I thank you.

Chairman FRANK. If the gentleman would yield, let me just make two points because I share his view.

One, I do think he is right that totally saying at the outset we are not going to get into wages is a mistake and that we ought to be, I think, very up front that that should be part of it.

It doesn't mean that you are setting a specific wage. It also varies. If we are talking about the multilateral development banks, remember that the multilateral development banks have to pick and choose among good borrowers. We are not talking about everybody being eligible and losing your eligibility.

We are saying we are ranking your application because we can fund maybe 20 percent of the requests that are legitimate. I think saying that we are going to take into account wage levels is a good thing to do, that is if we are capable of making the judgment in this case that wages are unduly depressed, that a minimum wage of a certain amount might be helpful. Certainly qualitatively it is no different than a lot of the other things they take into account, so I would not rule that out.

The other point I would say, I think the Secretary's view and some others is that in fact organization and other things are to some extent a proxy for wages. That is, if in fact you give people these kinds of procedural and organizing rights, they will themselves be able to take some actions that could raise wages, and I hope that is the case, but I would not rule out looking at wages specifically.

Mr. FINGERHUT. Reclaiming my time from the chairman, I take that to be part of Mr. Visclosky's answer that if you identify certain practices which by their very nature, prison labor, slave labor, unfair working conditions, and so forth, those set a floor to some extent under wages.

I guess that I would also respond to the chairman that it seems to me that one of the real values of any regime that might result from this exercise would be a sort of international educational experience whereby even by filing a claim, if you would, with—or a complaint with whatever organization would evolve, you could bring the public's attention to how a certain product is made and where it is made, and I think that that is a particular virtue of the approach that the gentleman from Indiana is mentioning because in that context if we can also talk about wages, we can point out how a product that is on the shelves in this country that is popular with our friends and our neighbors, where exactly it was made, where it came from, and have some factual way to definitively trace it and to inform our neighbors, and then they can make an

informed choice whether they want to make that consumer purchase or not.

Chairman FRANK. I think you will find when we get to Professor Bhagwati, as I read his testimony, that you have some things in common along those lines.

We appreciate Mr. Visclosky's coming. We are going to work with him. He has taken the legislative leadership on some aspects of this, and I think he typifies those members who are determined that we will take some responsible actions that will preempt another NAFTA type debate, so we thank you.

Mr. VISCLOSKY. Thank you very much, Mr. Chairman.

Chairman FRANK. Now, we will hear our panel. I think we have no votes before noon, so we should be able to get well into this before we get interrupted, and if you will take your seats, if you can see your names there. Professor Michael Piore of M.I.T., Professor Jagdish Bhagwati of Columbia, Professor Peter Dorman of Michigan State University, Ambassador Abraham Katz, who is the President of the United States Council for International Business, and Mr. Jerome Levinson, who is a visiting scholar at the Economic Policy Institute.

We will begin with Professor Piore.

#### **STATEMENT OF PROFESSOR MICHAEL J. PIORE, MASSACHUSETTS INSTITUTE OF TECHNOLOGY**

Mr. PIORE. Thank you, Mr. Chairman. I would like to testify this morning in support of Secretary Reich's proposal on international labor standards.

That proposal on standards divides into two parts. The first part is about substantive standards for the floor of the labor market, and the second part is about procedural guarantees governing the determination of standards in the labor market more broadly.

I am going to focus in my oral presentation on the second part of his proposal. I have talked a little bit about the first part in my written testimony.

Chairman FRANK. There is unanimous consent to put the written statements and supporting material of all witnesses into the record, so you can just proceed orally and all your written statements will be part of the record.

Mr. PIORE. We are living today through a period of technological and institutional change so vast as to constitute virtually a second industrial revolution.

The first industrial revolution was one in which growth was driven by the logic of mass production as an approach to economic development and efficiency. Labor standards were designed to be consistent with this logic and where possible to actually support and sustain it.

They presume bureaucratic organizational forms and rigid technologies and job definitions, approaches to organization and technology which were deemed efficient even as late as the 1970s. But information technology, organizational forms, and managerial techniques pioneered by Japan and the uncertainties unleashed by deregulation and internationalization have acted together to promote a new flexible approach to production.

Labor market deregulation, whatever one thinks about it, and I have my own serious reservations, is nonetheless a part of the process of adjustment to this new paradigm. It would be a grave mistake, however, to confuse a critique of the particular social standards and regulatory structures that were called into question by the economic changes of the last two decades with the notion that an economy can operate without any regulation and social standards at all.

Social standards are a complement to, even a precondition for economic activity under any regime of growth. Without them, a modern capitalistic economy would be unable to function at all. We are being forcefully reminded of this by developments in the former Communist countries in Eastern Europe as they try to create capitalist economies from scratch.

We need, I believe, now to turn our attention to working out the standards which are appropriate to the new technologies and competitive environment. New social standards are necessary to legitimize and preserve the movement we have already made toward a new industrial paradigm, but they are also required to consolidate those gains and complete them.

I think, and here I join you and the Secretary, that we need to be particularly concerned about the distribution of wage and salary income. The new productive system as it is emerging is producing an ever growing inequality which I cannot imagine our society will tolerate indefinitely.

But one can also identify a number of aspects of the emerging system of production where new social structures are necessary to consolidate its structure and complete its economic logic. I will mention two areas.

First, the new production systems require extensive cooperation between labor and management, and the participation of workers in business decisions from which in mass production they were completely excluded. American industry is having trouble working out these new forms of cooperation, and this puts us at a competitive disadvantage relative to countries like Japan and Germany where cooperation is an integral part of the industrial relations system.

A second problem is the provision of employment continuity and worker skill. The new techniques require much greater skill than did mass production. For a time it appeared that employers would want to provide greater job security under the new system and would have an incentive to provide the additional training as well, but we have learned recently through the experience of companies that were initially taken as models of the new employment system, like IBM and Digital, that even large companies cannot provide employment security anymore, and once companies recognize that they are unable to retain their employees, they have little incentive to invest in training them.

In recent years it seems we have been living off a skill base inherited from the past, but new institutions will be required to replenish it in the future. Those institutions will need to link companies together in some way to develop the requisite skills in common or to provide enough employment continuity so that workers have an incentive to invest in themselves.

The kinds of standards and institutions which will overcome these economic deficiencies cannot simply be defined by technicians and imposed by legislation, nor can they be created by top level negotiations among business and labor leaders. They involve a co-operation among lower level workers and managers which will be obtained only if those people actually participate in the development of the new institutions and structures.

The appropriate role of government is thus to establish a procedural framework which fosters the discussion and debate through which the new institutional structures and standards can be worked out. In a sense the Administration has already begun to do this domestically through the Dunlop Commission, but the globalization of economic activity and the new arrangements which have just been negotiated to replace the GATT imply that the United States cannot work out these new arrangements in isolation.

The labor standards which we develop here must be competitive in the world economy. In addition, the new international trading arrangements of necessity limit the degree to which national governments are free to subsidize their industries, for such subsidies can operate like tariffs to protect domestic producers from import competition.

But because the new productive arrangements depend so much on cooperation among enterprises to provide the infrastructure which under mass production individual firms provided themselves and because government is in any society the generic form which such cooperation takes, any limit on government subsidies constitutes a potential threat to our ability to create the institutional complements for the new productive systems.

Are government expenditures on education and training, for example, unfair trade subsidies? Would the exemption of small businesses from the taxes which finance a national medical insurance system, to take another example, constitute a trade subsidy?

For these reasons, our efforts to develop new labor standards at home must be coordinated with, and in fact a part of, a much broader debate about labor standards for the world economy as a whole. I take this to be one of the basic thrusts of Secretary Reich's proposal.

It is an essential part of the Administration's effort to achieve not only social justice but economic efficiency as well and to render the United States competitive in the world economy.

Thank you.

[The prepared statement of Michael J. Piore can be found in the appendix.]

Chairman FRANK. Thank you. Professor Bhagwati.

## STATEMENT OF PROFESSOR JAGDISH BHAGWATI, COLUMBIA UNIVERSITY

Mr. BHAGWATI. Thank you, Mr. Chairman. Let me begin by saying I am sorry to have seen that nice poster carried away with *The Economist* article on it because when Bob Reich said that *The Economist* represents an extreme point of view, I often thought of what an early editor, Geoffrey Crowther of *The Economist*, said; that *The Economist* was in the extreme center. I believe this is so



again, and on this issue, I am afraid I am against the social clause and putting the matter into the WTO and let me explain why.

To begin with, let me also say I am not a labor economist, I am an international trade economist.

Chairman FRANK. Most of us aren't.

Mr. BHAGWATI. I also have the slight advantage of coming from a developing country and having studied developing countries for about 30 years, so I speak from a slightly different background on this issue.

I think we are all struggling with the whole question of defining labor standards as universal standards or universal rights this morning, and that is part of the problem. I think one of the main motivations which I notice behind putting something like this into international trade as a precondition is clearly the notion that there is some sort of illegitimacy about the diversity of labor practices that you find across countries around the world. So, let me argue about the legitimacy of a number of practices.

There are certain things beyond-the-pale—and we all struggle with things like slavery. Slavery, everybody will agree, is a core value or nonvalue, it is something which everybody would deplore. But as soon as you start putting other things into this “red” box, you must begin to worry. Take prison labor for instance. It is of course in the GATT from the inception, and it is also earlier in the ILO. When we exclude trade in products made by prison labor, we are thinking about chain gangs. Fine, we had them and nobody would want those again. But the real question today is how you treat prisoners, whether they are working or at leisure; it is how you treat them that matters. So, when you take the issue out of labor standards and put it into a human rights context instead and think of how you are treating human beings, whether prisoners or otherwise, that is when it begins to acquire some salience from a moral point of view.

Again the prison-labor exclusion happens to be in the GATT because a small group of countries at the end of the war, most of them developed countries, felt it should be put in. Its universality is not automatically to be assumed. It has no moral salience for me at all, and to me it is a poor and misleading substitute for thinking seriously about the problem of the human rights of prisoners. The same is true if you think about child labor. If the alternative to child labor is starvation, then you have to worry about a moral trade-off. Again, the same is true of minimum wages.

Thus, economists in developing countries worry today about what is called the insider-outsider problem: High wages for the few insiders come at the expense of those outside. Most of the labor which is unionized in the poor countries is in fact among the not so poor; this is so in countries like India. The unionised workers are not part of the real poor who are instead the landless. So when you talk about raising the wages or permitting unions to raise wages (not the right to associate freely for the negative right of liberty and political activity, but the positive right, as philosophers call it, of raising wages) then it becomes an issue where you are maybe really helping the bourgeoisie, in Marxist terms, at the expense of the really poor. Paradoxically, you are worsening equality

by forcing your own cultural view from an advanced industrial society on to a poor country!

Again, there are intergenerational equity problems. If you raise wages, today, the ability to accumulate capital could be reduced, and therefore you will not be able to create enough jobs tomorrow to draw the poor from the landless poor into gainful employment. So, minimum wages appear attractive, as does the right to unionise for this purpose; and yet, they can create moral trade-offs that are fairly complex.

When you have gone through the economic argumentation, and economics is not monolithic on this as the chairman correctly pointed out in quoting that businessman, there can be legitimate differences on which standards make sense in a country. Indeed, there are enough numbers of people in the poor countries, many of them democratic, who feel from their own developmental experiences that to be asked by us to adopt labor practices from here or from anywhere simply because we assert that these labor standards are universal when in fact they are culturally, economically, ideas-wise specific to our part of the world, is not correct. Labor standards demanded on moral grounds in fact involve moral trade-offs since they necessarily intermediate through economic effects in ways which are broadly cultural. When we insist on others adopting our standards it is as bad as another country coming at us and saying we should solve our problems in the way they solve their problem in relation to minimum wages.

So the legitimacy question, I think, is a more complex one than normally realized. But let me turn to other reasons why the developing countries worry about the social clause and the demands for labor standards. As Secretary Reich himself pointed out, we are really telling the developing countries to shape up. So these countries see in a social clause precisely a *selective* menu of standards which are aimed exclusively at them, rather than a broad menu that would tread on everyone's toes. This suggests strongly a protectionist bias.

Also, consider why the issue has acquired salience politically today? It is surely because of the fear of competition from the south, from the poor countries. You go to Europe and they are talking about the "Asiatic ants" and the competition from them. You talk about the 1980s experience of declining wages of workers here. There is a fear of trade with the poor countries of the south causing this problem. The fear was expressed today that jobs are moving out through foreign investment, without regard to the fact that, in fact, during the 1980s, we received much more foreign investment than we put out. So, if anything, we should have gained if that argument was correct rather than lost as far as foreign investment was concerned.

The economic analysis, as Secretary Reich pointed out, is not supportive of the fact that trade is in fact undermining real wages. But that fear, as you, Mr. Chairman, pointed out during the NAFTA debate was nonetheless a very real one, and it led to a class warfare virtually. Clearly, therefore, fear is driving the demand for a social clause at the WTO, and this is why the developing countries feel that a moral issue is being used in a culture-

specific way to impose on them what they see as indirect ways of raising their production costs for our own competitive advantage.

So they worry about protectionism and then they say, aha, this issue is really going to be captured by protectionists no matter what Vice President Gore says, no matter what you say, Mr. Chairman, that in effect the reason why the issue is politically driven virtually throughout the European countries and here, the reason why it has become a big issue, is because of the fear of trade with the south, and what it is going to do to our income distribution, which is, of course, a legitimate thing to worry about.

That being the case, they do not want it in the WTO simply because they see that only things which we object to with those countries will be put in. If we were to really say, look, we are going to throw stones at your glass houses without building fortresses around our own, that would be fine. Thus, the desired social clause could include a whole lot of things, for example, including the treatment of our migrant labor, could then lead to the collapse of our agricultural exports—we would not be able to export agricultural products because we don't enforce enough in terms of maintaining our migrant labor rights. Then again, we have much less worker participation. We are also way behind the European countries, in terms of actual unionization, suggesting that in reality there is pressure against unionization, despite our freedom to form unions. I see this certainly at Columbia University when I look at the recent efforts by the staff to unionize. So I think, given all these arguments, I do think that we have to worry about the insertion of the social clause into the WTO. Therefore, I think I would rather have our efforts go in the direction which you suggest, that is, using bilateral aid programs to spread our ideas about labor standards, keeping the complexity of the matter very much in mind. Also, we could subsidize NGO activities, financing the spread of ideas, and if your ideas are good, they will spread. The Pope doesn't have any troops and we don't need the Spanish Inquisition really in order to spread Christianity. If Christianity is good, it will spread. So if you really have strong moral ideas, they will spread, and I think I would not want to use the trade method which will inevitably be captured because of the reasons why it is being propelled now. Thank you, Mr. Chairman.

[The prepared statement of Jagdish Bhagwati can be found in the appendix.]

Chairman FRANK. Thank you, Professor Bhagwati. Next, Professor Dorman.

#### **STATEMENT OF PROFESSOR PETER DORMAN, MICHIGAN STATE UNIVERSITY**

Mr. DORMAN. Thank you. Several months ago I was asked by the Labor Department's Bureau of International Labor Affairs to prepare a report which summarized the experience of different international bodies with the issue of international labor rights, proposals in this area, and, above all, the analysis that has been conducted around this issue over the last several years. In particular, I was asked to organize this body of material into a number of key questions, and I have circulated to you some of the questions I looked at.

I obviously don't have time to review them all now, but we can talk about them later if you wish to. Let me say a few things about some of them. First, we should be clear in what we mean by labor rights and labor standards, and, in fact, there is a difference between the two which ought to be emphasized.

Labor rights, properly understood, refer to procedural guarantees for individuals; so, for instance, prohibitions against forced labor or collective bargaining and association rights should be thought of as labor rights, whereas standards are attempts to dictate what outcomes ought to be—so, for instance, minimum wage requirements could be thought of as labor standards, also hours or working conditions.

Insofar as we are looking at large differences in economic development, it should be obvious that our preference should be toward harmonization of labor rights as against standards, insofar as we need to choose; or if standards are important, they should be thought of in ways that make them look as much like right as possible, and I can get into that later if you wish to do so.

The motive behind harmonization, and the distinction between motives, are very important. I would distinguish between one motive which primarily looks to—you could describe it as an altruistic or human rights motive—which sees labor rights essentially as a form of human rights, and a second motive which has more of an economic component to it, which says that the denial of labor rights in other countries has economic impacts on us and therefore we have an interest beyond the purely altruistic in this issue.

Both of these motives are obviously expressed, but there is a difference between them, due to the fact that we have to weigh them against the claims of national sovereignty. If our interest is strictly human rights, we have a lesser claim. There are certain core human rights around which we might wish to intervene in national sovereignty. But if an economic case can be made, however, the claim broadens, and we might consider various greater infringements on the freedom of nations to do as they choose.

Another very important distinction has to do with the understanding of labor rights in the context of international trade, in particular between two visions of how the world trading system works. This is not always made explicit, but in my view it underlies much of the debate.

On the one hand, there is a position advanced primarily by the advocates of labor rights which compares the differences between labor rights and standards around the world to differences within a country and says, just as we have Federal regulation in areas like the Wagner Act and Fair Labor Standards Act and so forth, so now, as the economy becomes more globalized, we should now move to some more general international standardization as well. From this argument flow the various economic consequences which we have heard about, including those that Congressman Sanders stressed very strongly.

On the other hand, you have a view which emanates from the classical theory of international trade, which probably most economists subscribe to, which says essentially that this argument is simply wrong—that it is intellectually incoherent and that the concept of competitiveness that underlies it is really a nonconcept. If

countries engage in trade, so long as the trade is balanced in the long run through some mechanism, the principle of comparative advantage assures that you always have exports with which you pay for your imports, and so the workers who lose their jobs in the import-competing industries find a job eventually in the exporting industries that expand. Hence the general argument that a country cannot lose from trade. It can only grow from trade.

In fact, if other countries around the world reduce their labor rights and thereby lower their costs, in a system of free trade the residents of our country, as a group, would benefit. We would be better off and not worse off as a result of such an action. There is the perception, of course, that some groups within a country can lose from free trade. There are winners and losers. The gains exceed the losses, but there are also losers. Therefore, you have to worry about protectionism.

The losers may organize politically in order to prevent a wider gain to the community from being realized, so, for the most part, economists who accept this view of the world are oriented toward preventing protectionism; in fact, that is a major impetus behind their work. This is also enshrined in the GATT process, and now prospectively the WTO process, so it is not simply a perspective of economists; it is, in fact, the intellectual heart, as it were, of the world trading system.

There are, however, arguments against this view of how the world trading system works. In particular, I would say the main criticism that is relevant to this debate has to do with whether it is true that trade actually does tend to balance either by some automatic or policy-driven process that is reasonably costless. Exchange rate adjustment would be such a process, but it may not be true that it works this way. If it is not true, if countries in fact can run persistent current account deficits as a result of not being, quote unquote, competitive, then competitiveness matters.

In the real world one could argue countries deal with trade problems through macropolicy in many cases; that is, through constricting their economy. This, of course, leads to more unemployment, so it may be that the workers who lose their jobs as a result of more imports don't get jobs in the export sector; instead they become part of a larger group of workers who are unemployed because the economy cannot afford a higher level of employment given its trade position. There are other arguments as well. I won't get into them now. We can get into them later if you wish.

The final point I would like to make is that—and I think I am echoing the Labor Secretary here—there are many different options, and sometimes the debate has a tendency to center on just a few.

On one end we have the idea of a social clause in the World Trade Organization. That would be a very strong approach which would have powerful effects, and that is, depending on how you look at it, either good or bad. On the other hand, there are more moderate approaches that could be adopted, and I reviewed these in my report.

I would like to close by saying that there are certain political or practical considerations that ought to be given consideration.

The first, and I agree, I think, with the entire panel here, is that protectionism is a consideration. There is always the danger that an issue like this will be captured. In response to that, it is important to adhere to the principle of multilateralism, and it is also important to demand that, whatever procedure be set up, it adopt the principle of transparency.

The second issue has to do with asymmetry, that we are talking about policies that will have very different impacts depending on whether you are talking about large countries or small countries, countries that are very trade-dependent or not trade-dependent, countries which are more advanced or still developing—and in the interest of fairness and of building an international consensus, one must respond to this asymmetry.

The fundamental principle here is flexibility. Any approach we adopt—and here I think I agree with Professor Bhagwati—must be one which addresses our own behavior as well as the behavior of other countries. If we put forward an approach that says, “Thou shalt do this,” but has no corresponding, “We shalt do that,” then there are legitimate grounds for complaint.

The final point has to do with consensus. In order to achieve international consensus on a policy which does have significant ramifications for developing countries, it is extremely important that it be packaged as part of a larger set of proposals that offer benefits to developing countries, including wider trade access, greater capitalization of international lending institutions, and other policies that offer benefits to developing countries that in their view, not ours, but theirs, will be perceived as compensating for whatever costs a labor rights initiative may have for them. Thank you.

[The prepared statement of Peter Dorman can be found in the appendix.]

Chairman FRANK. Thank you. Ambassador Katz.

#### **STATEMENT OF AMBASSADOR ABRAHAM KATZ, PRESIDENT, UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS**

Mr. KATZ. Thank you, Mr. Chairman. You have attached as my personal proposal a paper on trade and workers' rights. I want to stress that this is personal, it does not represent a position of the United States Council for International Business. The paper by Bob Morris, our Senior Vice President in Washington, is an analysis which does reflect very closely the views of our organization, and I will defend it against the attack that you made by taking one of his remarks out of context in a few minutes.

The first thing I would like to say is there is no such thing as internationally recognized worker rights. Let's get that straight. We, the Secretary of Labor, the U.S. government, and various bits of unilateral legislation use a number of concepts, just words, like freedom of association, like child labor, like acceptable conditions of labor. When the Europeans and the rest of the world use the words, “internationally recognized workers' rights,” they refer to the corpus of legislation in the ILO, 174 conventions. Sometimes they refer to the core conventions that Secretary Reich mentioned.

I might say that there is a discrepancy between what the ILO considers to be the core conventions, what the United States con-

siders to be basic workers' rights. The Secretary was right, of those core conventions we have only been able to ratify one of two conventions on forced labor. When it comes to freedom of association and right to organize and collective bargaining, you should know that we cannot ratify conventions 87 and 98 because they are in a number of material respects at variance with U.S. law and practice. That fact has been demonstrated in this booklet that was prepared by the Labor Policy Association and by our labor counsel and has not been contested in the tripartite forum for screening conventions.

Yes, the U.S. government in this tripartite forum is looking at the current convention on discrimination in employment. I might say there is a little old constitutional question there that is not raised by employers, just: Can you force the Heritage Foundation to employ a communist? A little thing like that. I think that illustrates the complexity of the issues.

Now, the notion of improving the condition of workers dates back to the last century. It dates back to earlier than the Treaty of Versailles, and it was feared even then that inferior conditions of work would confer a competitive advantage. Now, Bob Morris has pointed out that experience since then indicates probably to the contrary. In fact, he said the weight of both the evidence and the experience suggests that the higher the level of such standards, the more competitive and prosperous is a society or its enterprises which compete in the global economy.

The star example of that happens to be the U.S. economy, which is the most productive and competitive in the world, and we would hold up our member companies who have very high standards of employment and training of workers as being among the most competitive in the world. And if one were to include other competitive economies such as the Japanese, you would see that they are not very much further behind.

Now, that doesn't mean that we shouldn't do our best to raise the standards of workers and confer upon them rights as Professor Dorman has said, assure worker rights. The instrument for that is the ILO. At its inception, at its very inception, the notion of using trade sanctions to enforce these rights was considered and rejected.

Again, in the period of reexamining the ILO constitution, as the Second World War was coming to an end, this notion was considered and rejected. And, again, it was rejected 3 years ago. We have just formed in the ILO a working party to examine it again. I feel confident that it will be rejected again. ILO conventions are negotiated in the annual conference and ratification is essentially voluntary. There is supervisory machinery which exists that operates on the basis of sunshine, not sanctions. That is not to denigrate the effectiveness of the ILO.

Mr. Chairman, with all the international machinery in place only the ILO has begun to consider a complaint about violation of freedom of association in China. That is a complaint that I have here, and it shows that the ILO is capable of taking up issues involving basic workers' rights. Now, that doesn't mean that ILO procedures and effectiveness are perfect. They are subject to considerable criticism, but the solution lies not in applying trade sanctions to that, but introducing greater flexibility and a certain amount of sim-

plification so that the developing countries can ratify many more ILO conventions. For example, the convention on child labor has very few ratifications to its record.

Now, trade: Trade relations are a contractual matter, and this has been the case since the formation of the GATT, and in the WTO almost every tariff is bound. If you want to change the nature of the contract after it has been essentially negotiated by introducing a new set of conditions involving the content and implementation of domestic laws with no documented or documentable impact on the trade of other countries, I doubt very much if the other signatories to the contract are going to agree.

Now, the developing countries have raised a storm when we raised this issue in Marrakesh, and the Administration has backed off a little bit. All they want to do now is to study this issue. They want to study it in various forums. In the OECD, we just agreed to study the whole issue of labor rights and competitive advantage so the issue that you raise, Mr. Chairman, will be analyzed very thoroughly in a competent organization.

The ILO has agreed to discuss this issue again. The problem with discussing it in the WTO, as the Congressman proposed, is that the WTO is a trade organization, a contractual organization, and developing countries are not going to accept the notion that their contract is going to be subject to change without their agreement.

Now, the idea, about the social clause not being protectionist, that we must protect ourselves against protectionism, is a very attractive one. I have no doubt about the goodwill of Secretary Reich and Vice President Gore, but as Professor Bhagwati has made clear, our association with the protectionist circles in countries like France in this push makes these assertions on the part of our Administration very hard for developing countries to believe.

As a result of this initiative, I am sorry to report there has been a sense of outrage in the countries of the South and I think we have succeeded, the United States government has succeeded, in arousing a North-South controversy which has been dormant in recent years, and these animosities in the wake of the successful conclusion of the Uruguay Round are really going to get in the way of achieving important business and national objectives.

Thank you, Mr. Chairman.

[The prepared statement of Abraham Katz can be found in the appendix.]

Chairman FRANK. Mr. Levinson.

#### STATEMENT OF JEROME I. LEVINSON, VISITING SCHOLAR, ECONOMIC POLICY INSTITUTE

Mr. LEVINSON. Mr. Chairman, thank you. It is long overdue, the idea of introducing worker rights as part of the performance criteria which the Bretton Woods institutions—World Bank and the IMF—consider in assessing a country's performance and therefore eligibility for resources from these institutions. The same is true of the regional development banks, particularly the Inter-American Development Bank, so the initiative to which you referred and apparently which is cooking in this subcommittee is highly welcome, and I think should go forward with as much force as is possible.



Now, on this front there is both good news and there is bad news. On Friday in the IMF Board of Executive Directors the U.S. executive director for the first time made a really strong statement in connection with worker rights related to an operation which was before the International Monetary Fund, specifically Nicaragua. And her warning was very clear that the Bretton Woods institutions should not go overboard in promoting labor flexibility as part of economic efficiency considerations in countries where respect for and protections for basic worker rights are weak, as in Nicaragua and in many other countries. So that is the good news, that the U.S. executive director was firm and very strong in this connection.

The bad news is that as illustrated in the Nicaragua operation, the World Bank negotiated conditions with the Nicaraguan Government which undermine basic worker rights, ILO conventions 87 and 98, the right to organize, the right to bargain collectively and the right to strike, and the intervention of the U.S. executive directors in both the World Bank and the IMF comes too late to affect these conditions.

The point about the Nicaragua operation is merely illustrative of the fact that there is a strong bias within these institutions which is antiunion and antiworker, in terms of the conditionalities to which you have referred and which do involve a deep intervention into the economic and social conditions in these countries.

With respect to the question of whether or not there are agreed international worker rights, I might also point out that the NAFTA labor side agreement included a statement of labor principles which was very clear; whether one agrees or not, with the specific language of ILO conventions 87 and 98, the right to organize, the right to bargain collectively, and the right to strike should be considered and are considered generally accepted core international worker rights.

With respect to the last point made by Ambassador Katz about the storm in Marrakesh and the solicitude over the indignation of many of the developing countries to which Professor Bhagwati also alluded, one might also point out that there are some inherent contradictions. After all, Brazil and the other countries of MERCOSUR are right now engaged in trying to negotiate a social clause themselves which largely parallels what the European Community has tried to do. So there is something of a contradiction in at least some of the positions of countries like Brazil and its partners in MERCOSUR, where they themselves are trying to arrive at some basic protections for worker rights as part of a free trade agreement, but at the same time, they are raising fears about those rights in a more international context.

With respect to the multilateral financial institutions, I completely share the point of view which you expressed that the bias and the conditionalities are completely unbalanced in terms of the protection of capital to the disadvantage of workers, so the initiative to introduce worker rights into the country performance criteria used by these institutions is a very positive one. The danger is that the way in which these institutions now interpret worker rights results in their actually undermining those worker rights and therefore vigilance by this subcommittee, I think, is particularly important as it carries this initiative forward. Thank you.

[The prepared statement of Jerome I. Levinson can be found in the appendix.]

Chairman FRANK. Thank you. Let me begin with Professor Bhagwati. When we talk about cultural imposition and the reason not to do that, do you believe there has been any pattern of that in the structural adjustment agreements and in the other conditions that have been imposed by the multilateral institutions?

Mr. BHAGWATI. No, no, I agree, Mr. Chairman, with the general remark you made earlier which was that sovereignty was not the real issue because one is already infringing it by definition as soon as one imposes any kind of conditionality. I simply wanted to point out that in this particular case of the social clause the kinds of things which we are putting down here reflect our own culturally-defined sense of what is morally appropriate. These demands are not comparable in universality to habeas corpus or democracy.

Chairman FRANK. But there are people here, you would be surprised how many votes we have here that say habeas corpus isn't morally appropriate in the United States, so we had better find a different example. I don't think habeas corpus would carry on the floor of the House right now if it were up.

Mr. BHAGWATI. But we do have it.

Chairman FRANK. I know. It is a good thing we are stuck with it because if we had to reenact it, I think it would lose.

Mr. BHAGWATI. You never know.

Chairman FRANK. Forget habeas. The analogy, though, is to some of the structural adjustment requirements, the conditions that say you have to pay your farmers more, you have to cut back on this budget, you have to cut back on that subsidy. I mean, I think we are agreeing that the IMF and the World Bank have been for many years interfering, if that is the way you want to put it, with the sovereignty of borrowing countries and the answer is if you are going to be the recipient of someone else's funds, you lose some sovereignty.

Mr. BHAGWATI. Rather, what I am saying is that the kind of conditionality you are trying to impose is not appropriate.

Chairman FRANK. But my question is, is it any less appropriate?

Mr. BHAGWATI. As for the other conditionalities, I have long argued against many kinds, imposed by the World Bank for instance. Conditionality is inevitable and arguments against it on the general principle that nations should not have their sovereignty infringed have no appeal to me. And you are absolutely right, Mr. Chairman, when you say that there is inconsistency involved in asking for one kind of conditionality (the conventional economic one) while objecting to another on grounds of principle.

Chairman FRANK. I don't think anybody is talking about sovereignty here in a serious way. If they were, I want to know where they were when the IMF and the World Bank for years have been telling people change this part of your budget, pay your farmers more, don't do this much.

The other question I have is though you say that we haven't got the moral right to do it, that is with regard to trade. Setting aside the argument, and Ambassador Katz has made it and I think he made explicit what was implicit with you, that trade is kind of a

contractual situation where you are least justified in imposing your precepts, what about bilateral and multilateral aid?

I am going to give you some money. What is the moral inappropriateness of my conditioning the money I give you on my saying I want you to do this and that, because that is what we are talking about here. We are not talking about trade. We are talking about a multilateral or bilateral assistance situation, and also one in which we haven't got enough money to go around so we need some selection criteria. Is it wrong for us to take into account, if we are going to give as among worthies, that we choose those worthies that do most comply with what we think is the right way to do things.

Mr. BHAGWATI. If you are giving foreign aid or a special trade concession like GSP you are going out of the normal contractual arrangements.

Chairman FRANK. That is much of what we are talking about.

Mr. BHAGWATI. It seems to me perfectly natural to say, then, look, in that case, we will lie in that bed with you, like in NAFTA also, only if you conform to our views. NAFTA is a preferential discriminatory arrangement aiding Mexico, so I have always argued in public that in that case it is OK to go for a social clause on labor standards and to say, look, we won't do it for you unless—

Chairman FRANK. So many of your restrictions dealt with trade, but when you get to GSP or multilateral—

Mr. BHAGWATI. But it gets back again to the other issue. I was not saying that we should not necessarily impose our views in such context, but I was rather saying that when you impose any kind of conditionality like that for anything you are doing, then you better be sure that, in fact, you are doing something really sensible and good. Just because a measure *sounds* morally superior does not in fact mean that it is so. This is so when it comes to the labor standards as you probe deeper and this is why I emphasized my background in development economics that when you look at the institutions and the circumstances in which these decisions have to be taken, that when you intermediate these standards through the economic implications, then you often see a moral trade-off. Regardless of whether or not we have the right to impose standards, we should be careful that we are correct in evaluating the impact of what we are demanding.

Chairman FRANK. Professor Piore, you had something to say.

Mr. PIORE. I would like to take issue with the notion that there is a moral consensus in each of these developing countries that we are speaking to, number one; and number two, that necessarily their labor standards are so weak that they couldn't meet international conditions.

First, it seems to me that in most of the developing countries that I am familiar with and, granted, I don't have the kind of familiarity that Professor Bhagwati has, but nonetheless there is a wide debate about standards, labor standards and about the morality and the economics of those standards, and we are not necessarily imposing our values on these countries so much as enlarging that debate and entering into these national debates and allying ourselves with certain moral positions within those countries.

Second, I think we have suffered enormously in this country and particularly our labor movement has suffered from the idea that there are not labor standards abroad, and one of the things which I hope very much by raising this as an issue is that we will be drawn into really understanding and getting a better view as to what our competitive advantages and disadvantages are relative to other countries in the world.

It took us at least 10 years to recognize that the Japanese system of industrial relations and management might not be based solely on low wages, but rather was actually built on a series of different practices which turned out to be more efficient than those which were standard in our own country. I think that if we had been drawn into a substantive debate about labor standards in the 1970s with other countries, we would have recognized much more quickly what the realities of the Japanese system of management were.

I think something of the same thing has happened in the debate about Mexico. We underestimated how much Mexico had a framework of labor standards. So it seems to me that it is very important to make a distinction between this notion that what we are doing is imposing our standards and the idea of entering into a discussion and debate about labor standards.

Chairman FRANK. I am delighted that you reminded us of that because I think that is obviously the case, and I think Professor Bhagwati would agree, we are talking about dialogue here. I should say although my own involvement has been more in the political than the economic, I think we underestimate the universality of some of our standards, that is, the number of 8-year-olds that love to work all day, I think, is really quite small. I don't think it is a purely Western trait that a kid would rather play than work. It has certainly been the case in political rights.

I think there is an opposite danger here that we will get into a kind of view that almost implies that kind of fundamental racial gaps that aren't there. I must say one of the things that most impressed me recently was the extent to which the people of Cambodia came out to vote in overwhelming numbers despite the fact that people told them they had a high possibility of being shot. You know, we were told, well, these are sort of Western values, and so forth, and in that situation with no history of democracy, with the terrible problems from the Khmer Rouge, and so forth, the turnout was overwhelming. It turns out that the right to run your own country is a fairly fundamental human right, not some Western affectation, and I think that is true with much of what we are talking about here, so I think Professor Piore has been helpful with that.

Let me turn now to Ambassador Katz. You said that I took Mr. Morris's comments out of context. I don't think I did. I thought I quoted it exactly. I read the context before and after. Out of which context did I take it? Would you supply us the context that will help us understand it? I have his statement in front of me, pages 8 and 9. Please show me where I took it out of context.

Mr. KATZ. Well, I was referring to your saying that as a result of this sentence—that the reverse was true, that we, that American

companies were in favor of raising wages in order to become more competitive. That isn't the point. The point is——

Chairman FRANK. But that is the point. That is what he says, not just wages, standards. In fact, first of all——

Mr. KATZ. No, no.

Chairman FRANK. I read both sentences. Out of context—I take that as a serious charge. I read, I thought, the sentence before it. It says that “[t]he weight of both evidence and experience suggests that the higher the level of standards, the more competitive and prosperous is a society or its enterprises.” I want to make this distinction because I believe that we all tend to agree with that more as to the society, but we are getting a kind of a free rider problem here to some extent, and when you say that the higher the level of standards the more competitive and prosperous is a society or its enterprises, how am I taking it out of context to say that says that if you want your enterprise to be more competitive, one of the things you should do is to raise the standards and working conditions.

Mr. KATZ. That is the opposite. To raise wages unilaterally sometimes is indicated if you are going to get a higher level of skill and productivity, yes, and some of our companies do that, and I would say that a company like General Electric in the United States is more competitive——

Chairman FRANK. How did I take it out of context? What context did I destroy? What is the context—because I am reading it.

Mr. KATZ. You were saying that in effect—you didn't hear companies were voluntarily raising their wages in order to get higher—to become more competitive. Of course, not. Companies raise their wages when the productivity of their work force increases and when raising wages will contribute to the increase of that productivity.

Chairman FRANK. And you believe that when—I guess here is where I am very surprised, and I still don't see the context I missed because I was reading what he said. It has been my impression, I have heard companies tell employees you must take a wage reduction, you must give us more flexibility, you must allow us this or that or the other so we can be more competitive. So I am surprised by the notion that lowering the standards, “we see no *prima facie* evidence that low or denied standards endow a competitive advantage.” Again, I am not talking about the society now, I am talking about the individual companies because I think the arguments are somewhat different. I have just a recollection of a lot of individual companies saying we must lower the standards because we are in competitive trouble. Were they lying or making that up? What does that mean, low or denied standards do not endow a competitive advantage? If your wage costs are less than those of a competitor, that doesn't give you a competitive advantage?

Mr. KATZ. Well, sometimes it does and sometimes it doesn't.

Chairman FRANK. So it should have said since we see no *prima facie* evidence that it always does, but it sometimes does?

Mr. KATZ. Sometimes it does.

Chairman FRANK. Does he say that here?

Mr. KATZ. We are talking about the overall competitiveness——

Chairman FRANK. No, no, Ambassador Katz.

Mr. KATZ. Of our economy and of our leading companies.

Chairman FRANK. No, no. Ambassador Katz, now you are the one who is playing games with context. Where are the words, "leading companies" in here? I don't see "leading companies."

Mr. KATZ. We take our companies as a whole.

Chairman FRANK. No, now we are talking about the individual ones. You are the one who is trying to get out of what he says. I agree the economy as a whole is one thing, but he says "either on countries or companies," and he says "a society or its enterprises," so I still don't understand what—

Mr. KATZ. I would maintain, Congressman, that American enterprises taken as a group are more competitive than their competitors in any country that you care to—

Chairman FRANK. I agree, but that is not the issue. I would also be glad to join you in stipulating that today is Tuesday, Ambassador Katz, and that the month is June. Let's go back to what Mr. Morris said. Let me be very clear. This is not a game. I think what you have here is a guy who says one thing in one context and one thing in another, because we have all heard the argument that we need to lower wages, that we need to have fewer organizational rules, that unions are a problem, that a ban on striker replacement will kill us. The argument is not that I will have less money in my pocket, but that we will be at a competitive disadvantage. People are always making that argument, and now I have a spokesman for your organization in official policy saying there is no *prima facie* evidence that low or denied standards endow a competitive advantage.

It doesn't say only for leading companies, and so forth, and, again, I am not talking about the economy, I am talking about companies.

I find a glaring hypocritical gap between that statement and the arguments I have seen in case after case that says we better cut our wages for competitive advantage. I mean, did I make this up? Is it not the case that American companies sometimes tell their workers they are going to have to take less because of competitive international disadvantage?

Mr. KATZ. Yes, that is true, Mr. Chairman.

Chairman FRANK. Is that not *prima facie* evidence that to lower or deny standards would endow a competitive advantage?

Mr. KATZ. No, because as a whole America—

Chairman FRANK. It doesn't say as a whole, Ambassador Katz. It says companies or enterprises.

Mr. KATZ. Put in a caret and say that American enterprises as a whole.

Chairman FRANK. Oh, I see. So I read the thing out of context because I read it literally and I didn't see the invisible caret with "as a whole." I might suggest to your vice president that if he wants me to read his carets that, you know, carrots improve your eyes, but the absence of carets does not improve your eyes. I have to eat more to see them.

The fact is, and I accept your acknowledgment that he should have changed this, but I think that is a problem because this statement, I believe, frankly, is not very honest. Everybody tends in public policy to overargue their case. To argue that it is a mistake

to distort trading practices because the temptation will be so great you will overdo it, that is a very reasonable argument. But for a group of international business people to come in and say there is no *prima facie* evidence that low or denied standards endow a competitive advantage, the weight of the evidence says that the higher the level of standards, the more competitive is the enterprise—that is just so at variance with your practice and your rhetoric in every other situation that you undermine yourselves when you say it here that way.

Mr. KATZ. I won't continue to argue the point, Mr. Chairman, but I would say that even some of those companies that have reduced—have had to reduce wages or lay off workers to become competitive have higher standards than most of the competitors abroad.

Chairman FRANK. I agree, but then, you say they reduced their standards to become competitive, is that what you said?

Mr. KATZ. To become more competitive.

Chairman FRANK. So you agree that sometimes you reduce standards to become more competitive. That is the opposite of what this man said.

Mr. KATZ. You reduce wages or you reduce numbers of workers.

Chairman FRANK. I agree, that is certainly the fact in some cases. My objection is to the man saying the exact opposite for tactical purposes. You shouldn't do that because it doesn't help your case.

Let me ask one last question here, and that is with regard to wages, because I think we would say we have a fairly broad range of agreement that where we are talking about programs where we confer a benefit on someone else as a matter of our sovereign choice, we have a right to take into account certain things and certain standards can be taken into account. Should wages ever be a factor in our decision about—let's leave aside the general trade issue because there are other debates about that—multilateral and bilateral assistance?

Professor Dorman.

Mr. DORMAN. I would like to make two points here. The first is that the major cause for the huge international difference in labor costs is, of course, not differences in labor rights. The fundamental difference has to do with differences in levels of development and the existence of large pools of surplus labor in many countries.

No policy to make anything, anywhere conditional on labor rights will reverse that basic pattern. The potential impact, strictly in terms of comparative wage rates, of labor rights policies based on what flimsy, and I emphasize flimsy, empirical evidence exists out there is that perhaps as much as, and this is the outside measure, as much as a third of the differences in international manufacturing wage rates in tradeable goods might be related to differences in labor rights, so we are talking about a fraction.

Chairman FRANK. But a third is a big chunk.

Mr. DORMAN. Well, it is a chunk, but it is not going to change the fundamental patterns of trade; it will moderate it to some extent. This relates to the exacerbating factors you described earlier. The second point—

Chairman FRANK. Just speaking on general principle, for us in this business, let me tell you, if you can affect a third of a major

thing, that is pretty good odds, so whether we should do it or not do it, there are a lot of arguments for it, but the fact that it might only be a third is not going to be a persuasive argument against trying for some of the people around here.

Mr. DORMAN. But it is not even that big because changes in international policies are not going to affect that entire difference. We are talking about a fraction of a fraction. If your policy changes half of that variance, we are down to a sixth, so the first point is an empirical one that the impact of these types of policies, inasmuch as they can be estimated and I stress this is very tentative, is that they will have somewhat of an impact, but will not fundamentally alter the pattern of relative wages and trade flows.

The second point is whether international labor rights is a meaningful strategy to get at wages at all. Certainly not directly: I don't think anybody would propose that numerical wage rates be fixed through some kind of international agreement. There is some potential for impact, however, through things like collective-bargaining rights.

On the other hand, one must be careful, for the reasons that I believe Professor Bhagwati pointed out, that by trying to achieve greater equality between countries in goods that are in international trade you can exacerbate the inequality within developing countries between the more advanced sectors and the traditional sectors, and that can interfere with the development process. So one should then consider looking at labor rights which affect workers not only in the corporations that are more advanced in producing goods for international trade, but also in more traditional areas, for instance, making—and this is one example—a major push toward the improvement of social insurance systems in such countries to the extent feasible. This would obviously not be done through sanctions. It could be done through aid, to make it possible for people who are not able immediately to enter the most advanced sectors of the poor countries to have something to fall back on.

Chairman FRANK. Of course, in fact, the international institutions have spent much of the last couple of decades telling people to do less social insurance, not more. Now, we are trying to get that changed, but—

Mr. DORMAN. This is certainly an implication, yes.

Chairman FRANK. Professor Piore.

Mr. PIORE. I guess I feel that the role of social standards, if you looked at it across countries, would be more to equalize labor costs. That is, if you look at Latin America, in terms of formal social standards, if you look at Europe, I am not sure of Asia, many, many of the developing countries and the low-wage countries have better social standards than we do.

Chairman FRANK. In terms of statutory rights for organizations?

Mr. PIORE. For social security, for job security provisions, to some extent even health and safety. Particularly after the last 10 years, the degree to which our rights or standards have been eroded, so that the competitive advantage is coming out of wages, and I have, myself, no problem in principle with the idea that if you are trading with a country and you have the right to specify the conditions



under which you are willing to enter into those kinds of economic arrangements.

My impression is that what largely bothers Americans at the moment is the sense that we are entering into intimate economic relations with people who have basically a different set of social values than we do and that are undermining our basic values. I don't think that that is a correct perception, and I think that the new trading regimes that we have established will be more secure if those issues are openly debated and that American workers can be convinced that we are dealing with the rest of the world on the basis of an accepted set of agreed-upon standards.

Chairman FRANK. I think that is a good point that people have taken the argument about Japan and universalized it in places where it doesn't apply.

Professor Bhagwati.

Mr. BHAGWATI. I believe that it is again the process that matters. In regard to specifics of economic policies and outcomes, countries will inevitably have differences among themselves. Thus, for example, wages will be different across countries and their evolution of growth will also be different, reflecting all kinds of factors that we cannot even pretend to understand fully. This sort of militates against what I thought Secretary Reich to be saying: that we ought to monitor how wages develop in other countries and attempt to shift their course somehow.

On the other hand, I would support the notion that we ought to strengthen democratic processes in other countries and seek to influence domestic groups there in the direction of our social ideas, as we do with our programs such as for the National Endowment for Democracy. If we give aid to benefit particular nations, I also see no reason to abstain from conveying to the aid recipients, in all sorts of ways, our own views as to what is an ideal set of values in regard to certain social policies. But I would like to see the changes come finally from domestic policies decided upon democratically in free societies, influenced proactively by our ideas rather than by fiat and sanctions.

Chairman FRANK. What you said about strengthening democratic processes is actually relevant to another part of our agenda, because one of the major concerns of this subcommittee so far has been to try to get the World Bank, the IMF, and the regional development banks to be a lot more open and, in fact, to give more access to the NGOs, and I take it you would think that would be helpful.

Mr. BHAGWATI. I think so, definitely.

Chairman FRANK. You'd better write to them and tell them that.

Mr. Levinson.

Mr. LEVINSON. One has to ask why this increased intensity and focus. Part of it, I would suggest, is that what we have now is a mad scramble for investment capital in the world at large, and countries are entering into the scramble which previously were outside of it—China, India, which was a most autocratic society, and particularly in Latin America, you have had a change in philosophy whereby the obstacles to investment are being eliminated.

These obstacles constituted a self-regulating mechanism. The requirements for local content, export requirements, limitations on

ownership have now been eliminated so you have a competition among countries for capital, and one of the things that they are competing on is driving down wages and offering an investment climate which is most conducive to attracting this capital, which involves docile labor relations and weak unions or repression of unions. That is what creates the sense of unfairness among the American workers, and I think rightly so, and so it seems to me that what you are engaged in is trying to arrive at some minimum standard of what constitutes fair labor practices in terms of this competition for capital. And it is far better to give workers the right in their own countries to organize and to bargain collectively and let them then negotiate the standards and the wage rates which are appropriate within their context, as long as they have a fair chance to organize themselves and have some countervailing power.

That is what is really at issue, and that is what is meant, I think, by core labor rights: Put workers in these countries in a position where they can negotiate for their own interests.

Professor Bhagwati has said that sometimes this is to the disadvantage of the weaker part of the labor sector, but it can also work the other way around; unions in a country like Brazil, for example, know that there is downward pressure on wages because of the migration from the rural areas, so you get the Labor Party candidate in Brazil and the Labor Party platform arguing for agrarian reform. Why is agrarian reform of concern to urban workers? Because they know if there is an agrarian reform it might slow down the migration which puts downward pressure on wages, so the fact that you have an organized sector of society which, in protecting its own interests, has a more far-sighted view that protecting those interests involves also protecting the weaker segments of society. There is then a lobby and an interest group to help to raise the lower sectors that doesn't always work in the kind of regressive way that Professor Bhagwati outlined.

Chairman FRANK. Thank you. I am going to close this. Just one last statement that I think is important for people who are interested in this in general.

There is a tendency when we do these kinds of issues or other foreign policy issues, and it is left over from the days of America's unchallenged dominance of the world and leader of the free world, there is this view that America is a kind of abstract decision maker and that everybody else in the world's neuroses and political problems and other tics are things we have to take into account, and as the NAFTA debate showed, that is just not so anymore.

One of the things people have to understand, and I want to go back to Kennedy's point about good neighbors, one of the things people have to take into account is that the kind of support in America, obviously, for consistently worrying about everybody else and not worrying about ourselves is diminished some, and so one of the factors here has got to be some reassurance for the United States as well.

This has been very helpful, and I appreciate this. I think there is a genuine intellectual dialogue going on in the country and in Congress about this, and we appreciate it. Professor Bhagwati, Dr. Key mentioned to me that your articles were always on the reading

list when she was in school and that she is glad you were able to be here today.

I thank you all very much. If there are any further documents or thoughts that occur to any of you that you want to submit, the record will be open for a little while. The hearing is adjourned.

[Whereupon, at 12:41 p.m., the hearing was adjourned.]



## APPENDIX

June 28, 1994

Statement of  
HONORABLE JOHN J. LaFALCE

Hearing on International Labor Standards  
Subcommittee on International Development,  
Finance, Trade and Monetary Policy

June 28, 1994

Mr. Chairman, I commend you for continuing to pursue the issue of international worker rights in the context of trade practices and obligations.

At the Subcommittee's first hearing on this subject in March, I expressed my deep concern about labor rights and the need for the U.S. to take a strong leadership position on this issue. Too often in the trade debate, economic and business considerations are given far greater attention than protections of basic worker rights. In fact, too often the competitiveness issue and the worker rights issue are seen as inherently contradictory. We do a great disservice to working men and women around the world if we persist in this line of reasoning. Instead, we should recognize that the protection of labor is a basic ingredient of economic productivity and can be a boon to trade. We must stop thinking in terms of trade or labor. We should instead talk of trade and labor.

Indeed, U.S. trade and foreign assistance legislation has specifically linked these issues with the principle of internationally recognized worker rights having been incorporated in no less than seven statutes including provisions in the 1988 Omnibus Trade and Competitiveness Act, the Generalized System of Preferences in 1984, the Caribbean Basin Initiative of 1983, and

the Overseas Private Investment Corporation. Most recently we have the Labor Supplemental Agreement to the NAFTA--a most direct link between labor rights and trade.

As the debate on the World Trade Organization looms before us, now is the time for the United States to take a strong, unequivocal stand on international labor rights. The Administration has already called for their consideration in the GATT. But we must also demonstrate our commitment by actions, not just words.

I noted in March that we celebrate this year the 75th anniversary of the International Labor Organization. The best birthday present we could give to the ILO and our nations' workers is ratification of the core conventions of the ILO. Of the 174 ILO conventions, the United States has not ratified even one of the Organization's core conventions which are the fundamental tenets of labor rights. We have not ratified conventions on forced labor, freedom of association, the right to organize and bargain collectively, or on minimum age and child labor.

The United States already has made a policy decision through various statutes that have clearly linked labor rights and with trade. I believe, Secretary Reich, that we should immediately begin to bring U.S. international treaty obligations on labor in line with the U.S. legal position on worker rights. We should ratify at a minimum the core ILO conventions and demonstrate to the world the unswerving U.S. commitment to labor rights.

This month, Mr. Chairman, I will be introducing a Congressional resolution expressing the sense of the House of Representatives that the United States should expeditiously ratify the ILO conventions that constitute the core principles of internationally recognized worker rights.

Mr. Chairman, I again thank you for convening this committee to consider this important issue, and I look forward to this morning's dialogue.



Opening Remarks of  
**Congressman Paul E. Kanjorski**

at the hearing of the  
Subcommittee on International Development, Finance, Trade and Monetary Policy of the  
House Committee on Banking, Finance and Urban Affairs

*on International Labor Standards and the Use of Trade Agreements and  
Development Assistance as a Mechanism to Promote Them*

June 28, 1994

Mr. Chairman, I would like to take this opportunity to thank Labor Secretary Robert Reich for appearing before us today and for his role in this most important of discussions regarding multilateral trade policy.

I appreciate this hearing today because it gives me the opportunity to follow up on a recent field hearing in my district related to this subject. Earlier this month, the Secretary was kind enough to send as his representative, Associate Deputy Under Secretary for International Affairs Andrew Samet, to participate in a field hearing in Wilkes-Barre, Pennsylvania, of the Labor-Management Subcommittee of the House Education and Labor Committee.

The hearing reviewed the situation at Leslie Fay, an American apparel manufacturer that is in the process of closing all domestic manufacturing operations and contracting out production to factories in Guatemala and elsewhere. We received testimony of actual workers who described the abhorrent conditions in Central American apparel factories. I will not elaborate here but say that no worker, in any part of the world, should be subject to such inhumane treatment, particularly children who are too young to work in most civilized nations.

I will say that in listening to the testimony of the foreign textile workers, I could not help but be reminded of the complicity of U.S. industry in sustaining such conditions. Evidence was presented that U.S. apparel companies are moving manufacturing operations out of the country to take advantage of cheap labor not for the purpose of making goods cheaper and improving competitiveness, but simply to maximize profits. It is, plainly, profit maximization on the backs of poor foreign workers, and at the expense of U.S. workers left behind and forgotten by such companies. We cannot in all good conscience allow this to continue.

Mr. Secretary, over 1,200 workers are poised to permanently lose their jobs at Leslie Fay factories in Northeastern Pennsylvania. We owe it to them, and to the holders of manufacturing jobs that remain in this country, to take policy on international labor standards in a direction that will yield tangible results; that improves working conditions and raises wages and living standards worldwide.

During the 102nd Congress, I joined many of my colleagues in supporting a sense of the Congress resolution that any GATT agreement must be compatible with, and must not undermine, U.S. health, safety, and labor laws. I am pleased that as world trade representatives prepare for the preparatory meetings of the World Trade Organization, the multilateral discussion of international labor standards has the opportunity to reach a new plateau.

Also in the last Congress, as many of my colleagues on the Banking Committee may recall, I successfully offered an amendment to strengthen international labor and environmental standards to international trade legislation considered by the Banking Committee. My amendment directed the Secretary of the Treasury to instruct the U.S. Executive Director of each international financial institution to use our voice and vote to encourage fair labor practices, provide for health and safety in the workplace, limit excessive work hours, implement prohibitions against child labor, guarantee livable wages, and comply with minimum environmental standards. Under the terms of my amendment, U.S. directors would have to vote against projects that did not meet minimum labor and environmental standards.

In addition, my amendment put teeth in this mandate by requiring U.S. directors to work for agreements with recipient nations to bring their overall labor and environmental standards up to U.S. levels by the year 2000. Unfortunately, while my amendment was adopted by a unanimous voice vote of the Banking Committee, it was not included in the final bill considered by the House. Because of the unanimous, bipartisan support it received in 1992, I will offer it again when we consider similar legislation in the full Banking Committee tomorrow.

In the final analysis, Mr. Chairman, and Mr. Secretary, we must work to bring foreign nations up to our standards or we condemn our own worker to a life of hardship and poverty. When foreign workers finally earn enough to buy American made products, we will know that our trade problems are finally over.

I applaud Chairman Frank for his continuing the series of hearings on this topic, and without any further hesitation, I look forward to the testimony of our witnesses today.

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Statement of Rep. Bernard Sanders  
Banking Subcommittee on International Development Hearing  
June 28, 1994

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Mr. Chairman, I am very pleased that you are addressing the important issue of international labor standards. As the global economy becomes more integrated, the plight of the American worker is increasingly defined in the international arena.

I have full confidence that workers in Vermont and all over America can successfully compete for jobs in a global economy if they are competing on a roughly level playing field. However, as you know, the playing field is badly skewed. Multinational corporations are encouraged to save money by exploiting workers in China, Indonesia, Guatemala, and other countries where basic worker rights are ignored.

There has been some discussion that we should not try to level the playing field, that we should respect the special needs of developing countries. Developing countries do have special needs. However, I must stress that blind acceptance of slave and child labor is not within the scope of respect for special needs. Quietly standing by while the core worker rights of association and organization are restricted is not respecting special needs. Neither is exploitation of poor laborers by our multinational corporations. In fact, developing countries have a special need for basic worker rights because such rights promote sustainable

growth and development. We must respect that special need.

There has also been discussion that American efforts to level the playing field would be ineffective. This is simply untrue. American aid, loans, products, markets, and investment are desired worldwide. We should not spend these bargaining chips without promoting basic worker rights and sustainable international development.

Mr. Chairman, the subcommittee is already heading in the right direction. Its mark for the International Development Act of 1994 includes a provision that requires the United States representative of international financial institutions to use his or her voice and vote to promote internationally accepted basic worker rights. Mr. Reich, I was pleased to read in your written testimony that you believe this type of incentive "may be a promising option."

We should also extend this policy to our bilateral agreements where the American voice speaks alone and can't be lost in the international chorus.

I will be offering a companion trade bill in the near future. Among other things, the bill prohibits the President from entering into new trade agreements that do not contain provisions that require each signatory country to adopt and enforce laws to afford internationally recognized worker rights in that country. The systematic denial or practical nullification of internationally recognized worker rights would

be treated as an actionable unfair trade practice.

I hope I can count on the support of the members of this subcommittee and the Administration when I offer this important trade bill.

PETER J. VISCLOSKY  
1ST DISTRICT INDIANA

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Statement by Rep. Peter J. Visclosky (D-IN)

Subcommittee on International Development,  
Finance, Trade and Monetary Policy

Hearing on International Labor Standards

June 28, 1994

Mr. Chairman, I would like to thank you and the other members of the subcommittee for allowing me to testify today regarding the issue of worker rights and internationally-recognized labor standards. I am encouraged by your commitment to give this issue the attention it deserves. Further, I am pleased that the distinguished Secretary of Labor, who has taken a prominent role on this issue within the Clinton Administration, was here this morning to elaborate on his thoughtful views in the ongoing debate.

Mr. Chairman, I am here today to focus the subcommittee's attention on legislation I have introduced, directing the President to seek the establishment of a working party on worker rights and international labor standards within the General Agreement on Tariffs and Trade (GATT), as well as a standing committee on this issue within the World Trade Organization (WTO) when it comes into being next year.

This bill, H.R. 4271, which has 72 co-sponsors, follows-up on House and Senate letters -- signed by 68 U.S. Representatives and 20 U.S. Senators, respectively -- sent to President Clinton in March urging him to marshal international support to establish a standing committee on worker rights and labor standards within the WTO, and, on an interim basis, a GATT working party on this issue.

I commend the President and U.S. Trade Representative Mickey Kantor, as well as the Secretary of Labor, for expressing their support for addressing worker rights through the GATT/WTO. In January of this year, President Clinton and the leaders of the European Union discussed the next generation of trade issues to be dealt with as the successor agenda of the Uruguay Round of the GATT. The President specifically identified labor standards as something that must be addressed. With the support of the President, Ambassador Kantor worked tirelessly to convince our trading partners to establish a working party on worker rights and labor standards.

Unfortunately, the Marrakesh Ministerial Declaration signed in Morocco on April 15 did not provide for the establishment of a GATT working party or WTO standing committee on this issue because of strong foreign opposition to talking about the relationship between the trading system and internationally recognized labor standards. Instead, an eleventh-hour agreement was reached whereby countries will be able to raise new issues, including labor standards, in the Preparatory Committee, which is charged with establishing the agenda for WTO.

While this small step forward is better than nothing, it does not guarantee that a working party or standing committee on worker rights will be established within the GATT/WTO.

Peter J. Visclosky  
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Many of our trading partners objected to the creation of a GATT working party on worker rights, claiming that it was a "new" issue. However, linking respect for worker rights and labor standards is not a new or radical concept in U.S. or international policy discussions. Indeed, for nearly 50 years, the GATT has turned a deaf ear to addressing worker rights and labor standards despite repeated entreaties from U.S. trade negotiators in both Democratic and Republican Administrations.

In 1988, the U.S. formally proposed for the first time during the Uruguay Round a GATT Working Party on Worker Rights and Trade. The purpose of this working party would have been to clearly establish that it is unjustifiable for any country or any of its industries to seek to gain competitive advantage in international trade through the systematic denial of fundamental internationally recognized worker rights. It would not have been within the purview of this working party to consider the comparative advantage that many developing countries, with sizeable numbers of unemployed workers, derive from lower unit labor costs in different modes of production.

The objectives of the proposed working party were to explore ways in which to link the conduct of international trade to respect for those fundamental worker rights -- including the freedom of association, the right to organize and bargain collectively, and the prohibition of forced or compulsory labor -- which empower workers everywhere to help themselves and to share more fully in the benefits of trade within countries, as well as among them. The imposition of uniform labor standards, such as wages and hours, was not an objective.

Last April in Marrakesh, the international community once again balked at a golden opportunity to examine the relationship between the global trading system and internationally recognized labor standards through a working party in the GATT and a standing committee in the WTO. Now, more than ever, it is up to the United States to take a decisive leadership role and insist that this long-neglected issue be addressed. My bill is a way to demonstrate political support for the Clinton Administration's efforts to convince our trading partners that this issue will not go away, since it will be up to the Congress to approve the implementing legislation for the Uruguay Round.

Thank you, Mr. Chairman. I would be happy to answer any questions you, or other members of the subcommittee, might have.



*Testimony Prepared for  
United States Secretary of Labor  
Robert B. Reich*

*Committee on Banking, Finance, and Urban Affairs  
Subcommittee on International Development, Finance,  
Trade, and Monetary Policy  
June 28, 1994*

Chairman Frank and members of the Subcommittee:

It is a pleasure to appear before Subcommittee on International Development, Finance, Trade, and Monetary Policy to discuss international labor standards. Chairman Frank deserves credit for tackling a subject whose importance is matched only by its complexity. In light of that complexity, this hearing serves a valuable purpose: continuing the conceptual spade work that is the prerequisite to any sound public policy. As his adversaries will attest, the chairman has proven to be dangerously skillful at such intellectual arm-wrestling. And ordinarily, I'd approach this hearing with some trepidation. But I know he'll take it easy on me when the panel turns to questions because of my unique status as the only cabinet member from Massachusetts.

Our discussion comes in a year when we mark some important anniversaries in the evolution of international labor standards, and when world events demand renewed attention to this issue. The International Labor Organization reached its 75th birthday this year, and President Clinton has reaffirmed our country's long-standing commitment to ILO's cause. This year also marks the 50th anniversary of the Declaration of Philadelphia, perhaps the most ambitious attempt so far to articulate an international position on labor standards.

This evolution continues today. And it proceeds as the issue of international labor standards gains an extra degree of salience, symbolized by the recognition at Marrakesh that labor standards must be taken into account in formulating the work for the new World Trade Organization. When I travelled to Europe earlier this month to discuss this topic with the entire membership of the ILO, I also met with GATT Director-General Peter Sutherland on plans for incorporating labor standards into this historic global trade pact. At the OECD Ministerial meeting in Paris, I participated in discussing and adopting a work program on the topic. And we are now working with the U.S. Trade Representative to further develop the U.S. position for the Preparatory Committee meeting of the WTO.

But more than any international agreement, the accelerating integration of the global economy makes it ever less possible for

advanced countries like ours to wall ourselves off from labor practices in other countries. As economies become increasingly interwoven with each other, we must either actively accept some share of responsibility for how our economic partners conduct their affairs, or else passively accept complicity.

The implications, however, remain complex, and subject to confusion. At least a few participants in the debate appear to cherish their confusion, and remain remarkably immune to explanation. For example, I published an essay on this topic not long ago in which I argued that developed countries have a legitimate interest in labor standards abroad, but that in expressing that interest and giving it force they must be pragmatic, must respect developing nations' special circumstances and their urgent need for growth, and must beware the hazards of using trade sanctions as the main instrument for advancing international labor standards. This struck me as a rather common-sense position, but it provoked the ire of the Economist. The editors of the Economist declared themselves to be in vigorous opposition to my position on this issue, and expressed this opposition in an article that makes, so far as I can tell, the following points: The developed countries have a legitimate interest in labor standards abroad, but in expressing that interest and giving it force they must be pragmatic, must respect developing nations' special circumstances and their urgent need for growth, and must beware the hazards of using trade sanctions as the main instrument for advancing international labor standards. (I will confess that I briefly reconsidered my position upon discovering the Economist to be in broad agreement with it, but on reflection found it sound nonetheless.)

Yet aside from a few journalistic strongholds of resolute confusion, we seem to have advanced beyond the conceptual gridlock that has plagued the international community for so long. Few are willing to suggest openly that labor conditions, however egregious, are strictly internal affairs. Nor today are there many candid advocates for the opposite extreme, which argues that standards in every nation must be identical to those attained in the most advanced economies. We have achieved that essential prerequisite for consensus -- an agreement to look to the middle ground.

Now as we map that middle ground, let me begin by asserting the legitimacy of defining some absolute standards to which every country is expected to conform. Some labor practices simply place countries outside the community of civilized nations. How can these core labor standards be defined? Any such list will certainly include goods produced by prison or slave labor. Some forms of child labor -- such as work by very young children -- will also be found to violate universal norms, even in the poorest countries. Nor is poverty a valid pretext for restricting freedom of association and organization or the rights

of workers to bargain collectively.

Beyond a short list of core labor standards, judgements must become more conditional. The international community clearly cannot attempt to dictate levels of working hours, minimum wages, benefits or health and safety standards uniformly matching those of the United States and other industrialized nations. The belief that developing countries must grow richer in order to improve living and working conditions, and that they must trade if they are to grow richer, has merits. Yet this observation contains within it an implicit acknowledgement that standards should not be and are not static, that a country's ability to offer its citizens better working lives rises with development, and that international expectations may properly rise as well.

So while it is neither fair nor realistic to insist that labor standards within developing countries must be identical to those in richer countries, it is appropriate to expect labor standards to improve as economies develop. That is the course our own nation followed. And this expectation for others reflects both moral and material interests. Countries with rising mass living standards offer growing markets for other countries' exports and thus all countries have an economic stake in broadly shared prosperity abroad. Free trade is not an end in itself, but a means to rising living standards worldwide, more jobs and better jobs. But if a country pursues policies that hold down living standards and limit to a narrow elite the benefits of trade and development, the promise of open commerce is perverted and drained of its rationale.

If the world can legitimately expect rising labor standards and rising living conditions to accompany third-world growth, then what criteria -- beyond the violation of those core absolute norms concerning prison labor, slavery, child labor and blatant restrictions on freedom of association and organization -- should guide the international community?

Let me suggest to you a two-part test. The first concerns democratic institutions. The second concerns trends.

Labor conditions are determined by both economic and political factors, and it is difficult to disentangle the effects of each. But the existence of democratic institutions -- that is, multiple parties, freedom of speech and the press, clean elections -- does give cause for confidence that low wages and poor working conditions are related to economic constraints. The less democratic the country, the greater the grounds for suspicion or concern that labor standards are being suppressed in order to serve narrow commercial interests or a misguided mercantilist impulse on the part of the elites.

Where there are reasonably robust democratic institutions,

we can presume that labor conditions reflect what the country can afford, given its level of development. But what of countries where democratic institutions are weak or absent? For these countries, trends in labor standards and economic inequality offer a second yardstick. Low-wage workers should become better off, not worse off, as trade and investment boost national income. The gap between rich and poor within a nation should tend to narrow with development, not widen. If a country lacks democratic institutions and fails to disseminate the benefits of growth, other countries might justifiably conclude that low labor standards are due not so much to poverty itself but to political choices that distort development and warp the economy's structure.

The tentative framework I have laid out so far deals only with diagnosis, not with prescription. It frames the goals, but is silent on how to reach them. That leaves for us a final question: what response should the international community make to policies that affront the set of standards it comes to articulate? This question is related to, but distinguishable from, the criteria that should trigger international concern.

Here, let me limit myself to three general principles. First, it is clearly preferable for any action to be authorized and implemented multinationally, in order to increase the odds that intervention will be effective.

Second, there should be a menu of potential responses to labor-standard abuses, varying in both the nature and the severity of their effects. This range could include specific incentives to motivate change and technical assistance to clear the path to improvement, "sunshine" provisions in order to highlight abuses, ineligibility for international grant and loan programs, and targeted trade measures. The United States already has a number of mechanisms for promoting adherence to labor standards. For example, under current law a country's eligibility for investment guarantees and trade preferences may depend upon its demonstrated respect for workers' rights. Expanding such incentives to other international activities, such as multilateral development grant and loan programs, may be a promising option.

The third principle, which gives force to the other two, is pragmatism. The purpose of any intervention must be to bring about change in the offending nations. Scrupulous assessment and analysis, at each stage, must inform the international community's efforts to improve labor standards. And we must not lose sight of the fact that trade itself -- by opening an economy to external influences and empowering a wider range of internal interests -- can be a catalyst for progressive change.

Multinational efforts, to be sure, are seldom easy to

conduct in any sphere of activity. Yet the mere fact that success depends on the skill of negotiators and diplomats is no reason to dismiss the effort as woolly-headed internationalism. Those who claim that any multilateral action is doomed to failure show more cynicism than the evidence supports. Such reflexive pessimism ignores, for example, our success in arranging for the North American Free Trade Agreement (NAFTA) to be accompanied by an historic labor side agreement that promotes labor standards and bolsters their enforcement in the United States, Mexico, and Canada.

Some critics of the multinational approach also predict that if the U.S. commits itself to a particular level of international labor standards, interest groups will use this stance to import their own narrow protectionist agendas. There is some degree of validity to this worry. International trade is a highly charged issue in domestic politics, and protectionists have shown themselves remarkably willing to march under a variety of banners. But this worry underestimates the capacity of those concerned about labor standards to recognize when their good motives are being manipulated in the service of a narrow cause. And to repeat, our repertoire of responses must be expanded to give a wide range of options other than trade policy.

Developing a detailed program for advancing international labor conditions will occupy us until the century's end and probably beyond. I thank you, Mr. Chairman, for moving this discussion forward this morning. Let us waste no time in continuing.

## BUSINESS

## Free trade or foul?

The cover-leader in our issue of April 9th examined the question of trade policy and labour standards in developing countries. In an article in the *Washington Post* on May 22nd, Robert Reich, America's labour secretary, attacked our analysis—and bemoaned our lack of concern for the third world's oppressed workers. Here is our reply to Mr Reich

THE debate over labour standards in the third world (and what, if anything, the West should try to do about them) cannot help but be controversial. People in rich countries are rightly appalled by slavery, child labour and other practices no longer tolerated in the industrial countries. They want something done. Governments of poor countries, however, resent interference in such matters. In our leader on this subject, we argued against using trade policy to force change upon offending third-world governments. Mr Reich took offence at that conclusion and at the way we reached it.

In arriving at his own position, Mr Reich discussed three reasons why the United States might want to take an interest in other countries' labour standards:

- **National security.** Governments that abuse their workers are, some argue, "bad actors" who "will sooner or later threaten global peace". It may be better to bring them into line at once; tolerating wickedness over labour standards only encourages them to be bad citizens in other respects.

- **Economic security.** Poor labour standards in the third world help to keep production costs in those countries low. But America and other civilised places cannot compete with sweatshop labour. In this way, inadequate standards in the third world destroy jobs elsewhere.

- **Humanitarian concerns.** Practices such as slavery, child labour, and suppression of rights to free speech and assembly are all bad things. It is morally wrong for the West to turn a blind eye.

Mr Reich evidently wants *The Economist* to give greater weight to such arguments. This is odd, because he himself seems unconvinced by the first two: in his own article, they are no sooner stated than (all but) withdrawn. Quite right too. The idea that child labour in, say, Bangladesh compromises the national security of the United States is too ridiculous to take seriously. The idea that American workers cannot compete with "sweatshop labour" is not absurd, but it is nonetheless wrong: America's productivity, the highest in the world, makes its wages and labour standards fully competitive.

## ECONOMICS FOCUS

The third argument, that slavery and so on are bad things, is true. It has never been denied in these pages. Mr Reich complains of our "laissez-faire dogmatism", and says we "came close" to arguing that the West "shouldn't care how foreign goods are produced—even if workers are chained to their machines", so long as no rules of international trade are broken. The fact is, we explicitly argued not



merely that the West ought to care, but also that it has a legitimate interest in exerting pressure on third-world governments to curb the worst abuses.

We did propose, however, that such pressure should meet two tests. First, it should stand a good chance of being effective. Second, it should not jeopardise other goals, especially that of reducing poverty in the developing countries. We concluded that trade policy (only one of the ways in which the West might exert pressure) might sometimes pass the first test, but that it failed the second.

The avowedly pragmatic Mr Reich has little to say about this. He talks briefly and vaguely about "international action", meaning trade sanctions. Ideally "authorised and implemented multilaterally", these would punish countries where "the

core labour standards that define a civilised economy are violated, or where low labour standards persist despite economic growth, and where the feebleness of democratic institutions gives grounds for belief that living standards are suppressed by policy, not poverty."

Conceived this way, Mr Reich's proposal would fail even to achieve its narrow objective. No consensus for multilateral action of this kind exists, nor will it in the foreseeable future. Right or wrong, third-world governments will reject Mr Reich's criteria.

If multilateral action is ruled out, this leaves the United States to act unilaterally or in concert with some other (mainly rich) countries. Possibly, trade sanctions in these circumstances might change labour standards here and there, and

do some good. Certainly, any such benefit would be greatly outweighed by more widespread harm. Why? Because trade policy is hopelessly ill-suited to the tasks that Mr Reich would have it do.

More than any other sort of economic policy, trade policy is prone to capture by narrow interests. The pressure to protect domestic producers from foreign competition is intense and relentless. A new set of excuses for protection against imports from the third world (under Mr Reich's criteria, the list, written out in full, would be the most contentious and extensive ever devised) is certain to mean higher trade barriers and less trade, not just for the worst offenders on labour standards, but for others too.

The danger does not stop there.

The present arrangements for preserving and extending liberal trade depend on consensus. Mr Reich seems ready to see these arrangements break down. If that happened, the cost would be enormous—above all, for the poorest people in the poorest countries, whose best hope of a less miserable life rests on the economic growth that comes with trade.

In a telling phrase, Mr Reich argues that "the improvement of labour conditions as developing countries grow richer advances America's moral agenda and our economic interests at the same time". We purveyors of laissez-faire dogma see things differently. In our view, the improvement of labour (and other) conditions as countries grow richer is a good thing in itself. Mr Reich's arguments would best be ignored, except that they put this goal in danger.

TESTIMONY OF MICHAEL J. PIORE PREPARED FOR THE HEARINGS ON  
INTERNATIONAL LABOR STANDARDS OF THE SUBCOMMITTEE ON INTERNATIONAL  
DEVELOPMENT, FINANCE, TRADE, AND MONETARY POLICY, JUNE 28, 1994.

My name is Michael Piore. I am the David Skinner Professor of Economics and Management at the Massachusetts Institute of Technology. My field is labor economics. My research has focused upon the way in which the economy is embedded in social structures. Most recently, it has focused on the relationship between labor policy and human resources management, on the one hand, and industrial structures and the business strategies of enterprises on the other. Basically, I am here today to endorse the policy which the Secretary of Labor has enunciated as an approach for the development of a new framework for labor standards, internationally but also in the United States as a significant actor in the world economy.

Labor standards play a twofold role. First, they serve to reconcile the conflict between the requirements of productive efficiency with other social goals and cultural norms. Here, we must often think of a trade-off between social standards and economic efficiency. But labor standards play a second role in creating and maintaining the social framework in which production and exchange take place. They provide the rules of the game and common infrastructure which enable private parties to come together and form the complex organizational structures necessary to produce and distribute the sophisticated products upon which our standard of living rests. In this respect social standards are a complement to, even a precondition for, economic activity, and without them, a modern capitalist economy would be unable to function at all. We are being forcefully reminded of this by developments in the former communist countries in Eastern Europe as they try to create capitalist economics from scratch.

Until very recently, the basic framework of labor market

regulation, in the United States and in virtually all other countries as well, derived from an understanding of industrial society and productive activity which grew up in the course of the nineteenth century. The labor standards which developed, from the late nineteenth century and to the New Deal social and labor legislation, provided the social foundations for this form of economic development and the reconciliation which they achieved with other social values was built on that particular understanding of productive efficiency. Prevailing social standards in other words reflected this understanding and were designed to support it.

It is useful to distinguish two episodes in this historical development and two types of labor standards. The first, in the nineteenth and early twentieth century, focused upon child labor, elemental safety standards associated with fire codes and accident prevention, minimum hourly wages, industrial home work and the like. It gave rise to a host of different laws but the abuses these laws sought to remedy are all markers of a single mode of production, generally termed at the time sweating or the sweat shop. Sweating arises when the employer can escape all fixed production costs and workers are paid by the piece (rather than by the hour). This is the case when the worker works at home, owns her own sewing machine, and pays the rent, electricity, etc. and the cost of damaged material is deducted from her earnings. When work takes place in a shop, the major fixed cost is the rent; the employer tries to minimize rent per unit of output by cramming in as many people and as much inventory as possible, and this produces the fire and health hazards which have been associated in the mind of the public with the sweatshop since at least the Triangle fire. The sweat shop leads to child labor because the employer simply does not care about worker productivity.

The sweat shop tends to disappear in industries intensive in capital since, with capital equipment, the employer has an incentive to worry about the hourly productivity of his or her



workers, even when wages are minimal. The increased capitalization which occurs with economic development thus tends by itself to eliminate child labor, fire and health hazards, home work and the like. The laws and regulations which attack the sweatshop are in this sense a substitute for capital investment. Like capital investment, on the other hand, they tend to promote efficiency and growth. They continue to do so in developing countries and in some especially laggard sectors (most notably garments) of the U.S. economy today. The minimal substantive standards which Secretary Reich has proposed are essentially the standards which arose historically in the attack on the sweat shop, and, it seems to me, they are hardly debatable even today.

The second historical episode generating labor standards occurred in most industrial countries later in the twentieth century. In the United States, it was the outgrowth of the Great Depression and the rise of industrial unionism. In this period, labor sought standards of equity and industrial democracy, job and income security, and career advancement on jobs in the core of the industrial economy. Here there was a more acute conflict between equity and efficiency, one that in the United States at least was resolved through collective bargaining. The concept of efficiency which management brought to the bargaining table was however predicated on a commitment to mass production. Management believed that economic development would proceed through work systems modeled on Adam Smith's pin factory or Ford's model-T assembly line, using an elaborate division of labor with dedicated equipment and highly specialized, narrowly trained workers housed in a large, bureaucratic corporate organization, to produce standardized goods for a stable mass market. The negotiated labor standards were attached to the rigid job definitions and embodied in the bureaucratic rules which this approach generated.

In the last twenty years, the nature of productive activity has changed radically and fundamentally, so radically and fundamentally that it virtually constitutes a second industrial revolution.

Those changes have been a response to new technologies, particularly breakthroughs in information and communication technologies; to organizational innovations, especially new organization forms and management techniques emanating from Japan; and to the competitive pressures, uncertainties and instabilities unleashed by deregulation and expanding international trade. The rigid job definitions and bureaucratic organizational forms associated with mass production have been discarded in favor of new flexible forms. This has rendered the types of labor standards which grew up after the Depression obsolete and in fact, brought the standards, which under mass production actually promoted economic efficiency, into conflict with it. They, along with the organizational forms, managerial principles and technological approaches inherited from the era of mass production had to be radically altered. The process of deregulation which began under Carter, and continued particularly in terms of labor standards under the pressures of international trade and the policies of Reagan and Bush, are part of the process through which the adjustment to the new realities of industrial life have taken place. One might question the form which this adjustment took; I for one believe that it was unnecessarily brutal and imposed inordinate personal sacrifices on the people in our society who were least able to bear them. But the older social supports have now largely been eliminated; where they remain, the attachments to them have been weakened. A willingness to rethink, adjust, even reinvent, the social structures in which productive activity occurs is very widespread not only in the United States but throughout the industrial world.

It would be a grave mistake to confuse the particular social standards and regulatory structures which were called into question by the economic changes of the last two decades with the notion that an economy can operate without any regulations and social standards at all. And I believe that the time has now come to turn our attention to working out and implementing the standards and regulatory structures which are appropriate to the new

technological and competitive environment.

New social standards are necessary to legitimate and preserve the movement we have already made toward the development of a new industrial paradigm. But they are also required to consolidate those gains and complete them. The dangers of failing to move in this direction are suggested by Polanyi in The Great Transformation where he traces the political reaction which produced fascism in Europe in the 1920's and 1930's to the excesses of a free market, unrestrained by social standards. I think we need to be particularly concerned about the distribution of wage and salary income; the new productive system as it is emerging in the United States is producing an ever growing inequity which I cannot imagine our society will be able to tolerate indefinitely.

But one can also identify a number of aspects of the emerging system of production where new social structures are necessary to consolidate its structure and complete its economic logic. Quite apart from their role in insuring equity, in other words, new standards are required to enable the emergent technologies and organizational forms to operate effectively as a productive system over the long run. I will mention two areas in which this is the case.

First, the new production systems require extensive cooperation between labor and management and the participation of workers in business decisions from which, in mass production, they were completely excluded. American industry is having trouble working out these new forms of cooperation, and this puts us at a competitive disadvantage relative to countries like Japan and Germany where cooperation is an integral part of the industrial relations system.

A second problem in the new paradigm is the provision of employment continuity and worker skill. The new production techniques require much greater skill on the part of the labor force than did mass

production. In the past - and for a time during the transition - it appeared that employers would want to provide greater job security under the new systems and would have an incentive to provide the additional training as well. But as we have learned recently through the experience of companies that were initially taken as models of the new employment system like IBM and Digital, even large companies cannot provide employment security any more. And once companies recognize that they are unable to retain their employees, they have little incentive to invest in training them. In recent years it seems we have been living off a skill base inherited from the past but new institutions will be required to replenish it in the future. Those institutions will need to link companies together in some way to develop the requisite skills in common or to provide enough employment continuity so that workers have an incentive to invest in themselves.

Worker participation, labor-management cooperation, employment security, and provisions for worker training, are all labor standards for which our current system does not make provision but which are critical for its economic efficiency, whatever the effect on welfare and equity. The kinds of standards and institutions which will overcome these economic deficiencies cannot simply be defined by technicians and imposed by legislation. Nor can they be created by top level negotiations among business and labor leaders. They involve a cooperation among lower level workers and managers, and this in turn requires a allegiance of the people directly involved which will be obtained only if they participate actively in the development of the new institutions and structures. The role of government is thus not to impose new regulations but rather to establish a procedural framework which fosters the discussion and debate through which new institutional structures can be worked out. In a sense, the Clinton Administration has already begun to do this domestically through the Dunlop Commission.

But the globalization of economic activity, and the new arrangements which have just been negotiated to replace the GATT,

imply that we in the United States cannot work out these new arrangements for ourselves, in isolation from the rest of the world. The labor standards which we develop here must be competitive in the world economy. In addition, the new international trading arrangements, of necessity, limit the degree to which national governments are free to subsidize their industries for such subsidies can operate like a tariff to protect to domestic producers from import competition. But because the new productive arrangements depend so much on cooperation among enterprises to provide the infrastructure which under mass production individual firms provided themselves and because government is in any society the generic form which such cooperation takes, any limits on government subsidies constitutes a potential threat to our ability to create the institutional complements for the new productive system. Are government expenditures on education and training, for example, unfair trade subsidies? Or to take another example, would the exemption of small business from the taxes which finance a national medical insurance system constitute a trade subsidy? For these reasons, our efforts to develop new labor standards at home must be coordinated with, and in fact a part of, a broader debate about labor standards for the world economy as a whole. I take this to be the basic thrust of Secretary Reich's proposal. It is an essential part of the Administration's effort to achieve not only social justice but also economic efficiency and to render the U.S. competitive in the world economy.

For: Bureau of International Labor Affairs Seminar Volume

LABOUR STANDARDS, SOCIAL CLAUSE AND WTO

by

JAGDISH BHAGWATI

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The linkage between "labour rights" and international trade, such that a country's access to external markets is to be made conditional in some fashion on the acceptability of that country's internal "labour standards", is now a matter on the international agenda.

The ILO, led by the energetic Belgian Michael Hansenne, has shown active interest in the subject. Besides, more critically, the coalition of developed countries led by the United States, joined actively by France, has managed finally to get , as the price for concluding the Uruguay Round, an agreement by the Contracting Parties of the GATT to examine the issue. The matter is therefore on the agenda of the Preparatory Committee for the new World Trade Organization (WTO) that the GATT will turn into next year. The objective of the US-led coalition is the enactment of a Social Clause (specifying Labour Standards as preconditions for market access rights) by the WTO.

The question is already divisive, pitting most economists against the labour union activists and their political allies, and certainly the more articulate developing countries (the South) against the developed countries (the North). The question has the potential of frustrating the WTO's essential purpose of providing an overall framework for liberal trade rules by encouraging protectionist misuse of trade rules instead. It is also resurrecting the North-South divide that afflicted the world economy in the late 1970s. The issue therefore needs to be carefully and dispassionately examined before decisions are taken in the forthcoming months.

### Common Fallacies

At the outset, several fallacies, current in some of the discussion in the United States, must be examined.

1. Labour Standards are already in the GATT: Article XX(e), in the GATT from the original postwar agreement, permits exclusion of goods made by prison labour. Therefore, it is claimed, we are simply expanding the menu. But this is hardly persuasive.

Political compromises struck after the War, and among Contracting Parties that were overwhelmingly developed, have no value as precedents today. In fact, one may even argue today that objecting to prisoner-made goods as such in trade is silly and that what should matter to us, whatever we do about it, is the conditions under which prisoners are treated at work and leisure. So, the advisability of the linkage of what are being called "labour standards" today and the WTO must be argued afresh.

2. NAFTA Supplemental Agreements include Labour Standards: Since President Salinas accepted a Supplemental Agreement on Labour Standards (and another on Environment), it is claimed that putting one into the WTO is only an extension of an accepted principle.

But this "precedent" obviously has no value outside the US. Besides, President Salinas badly wanted NAFTA and was in an extremely-uneven one-on-one bargain with a superpower. His acceptance of the Supplemental Agreement has therefore no value outside of his specific and unusual context; it certainly cannot carry over to the multilateral context of the WTO.

3. As with Intellectual Property Protection, WTO must include Labour Standards: Labour spokesmen, commonly argue that WTO has accepted safeguards for "capital" and multinationals in shape of trade rules, investment rules and Intellectual Property Protection; why not adopt rules for Labour?

But this argument forgets that the trade rules are for economic efficiency, which generally helps everyone (with internal distributional problems being tackled by other policies); they are not there simply to assist specific factors of production (i.e. capital) or economic agents (i.e. multinationals), as such. Besides, rules about intellectual property protection, while different in essential respects in economic logic from those regarding trade, do have some essential trade aspects: the transfer and diffusion of technology, and payments for the same, across countries can be legitimately viewed as international trade in technology, whereas no such case can be made for "labour standards". As for the rules regarding trade-related investment measures at the GATT, these resurrect rules that parallel trade rules: e.g. the avoidance of local content rules is a time-honoured rule of the



GATT, to be sure.

4. "Free Trade is not an end in itself": This quote from a major proponent of the Social Clause also misunderstands the fact that free trade has never been regarded as an end in itself; it is a policy, not an objective! Free trade promotes economic efficiency and maximizes national income; its distributional impact is addressed by other domestic policies (such as adjustment assistance, retraining programs, progressive income taxation, etc.).

6. They are already in the 1988 Trade Act : Then again, some US Congressmen argue that , as with NAFTA Supplemental Agreements, the 1988 Omnibus Trade and Competitiveness Act, which incidentally also enacted the first Super 301 legislation, includes the absence of certain labour standards as unfair trade practices. So, the proposed WTO enactment of the Social Clause is ipso facto legitimate.

But the 1988 legislation is simply US law, where the linkage of trade with labour standards, and the specification of the labour standards, are both unilaterally asserted. No greater legitimacy follows from this for international legislation than from national laws enacted by other countries , reflecting domestic lobbies and interests.

7. The US is simply exercising Moral Leadership: Moreover, the matter is often presented as demonstrating US "moral leadership" , in a unique and characteristic way that other nations generally cannot provide. But, even if we agree that the United States has often taken the moral lead in questions of worldwide importance, this does not automatically imply that the Social Clause initiative reflects, in a deep way, broad moral concerns rather than the narrow economic interests of specific groups. Nor should we regard the many who oppose such initiatives as morally defective simply because those who propose them claim the higher moral ground.

Deep scrutiny of the Social Clause initiative, its desirability and its possible design, cannot be avoided, especially if its economic consequence was to impose inappropriate labour practices on poor countries or to jeopardize their trade access if they resisted them. Either way, a Social Clause could hurt their prospects for efficiency and growth, and adversely affect in consequence the goal of poverty-eradication, making the Social

Clause a morally-defective, rather than a morally-superior, innovation.

### The Real Argument

The real argument for the inclusion of the Social Clause in the WTO lies elsewhere. Properly understood and evaluated, however, it is a weak argument and the case which can be made for rejecting it is strong.

Central to American thinking on the question of the Social Clause is the notion that competitive advantage can sometimes be "illegitimate". In particular, it is argued that if labour standards elsewhere are different and unacceptable morally, then the resulting competition is illegitimate and "unfair".

When this argument is made about a practice such as slavery (defined strictly as the practice of owning and transacting in human beings, as in the centuries before the Abolitionists triumphed), there will be nearly universal agreement that if slavery produces competitive advantage, that advantage is illegitimate and ought to be rejected.

This argument can be purely moral: e.g. that we will not profit from the fruits of slavery, since it implies our complicity in the practice. But the politically more salient argument is one of "competitiveness": that it imposes an adjustment cost on our import-competing industries that is illegitimate and therefore "unfair".

The real problem with this argument, however, is that universally-condemned practices such as slavery are rare indeed. True, the ILO has many Conventions that many nations have signed. But many have been signed simply because in effect they are not binding. Equally, the United States itself has signed no more than a tiny fraction of these conventions in any case. The question whether a substantive consensus on anything except wellmeaning and broad principles without consequences for trade access in case of noncompliance can be obtained is therefore highly dubious.

Indeed, the reality is that diversity of labour practices and standards is widespread in practice and reflects, not necessarily venality and wickedness, but rather diversity of cultural values, economic conditions and analytical

beliefs and theories concerning the economic (and therefore moral) consequences of specific labour standards. The notion that labour standards can be universalized, like human rights such as liberty and habeas corpus, simply by calling them "labour rights" ignores the fact that this easy equation between culture-specific labour standards and universal human rights cannot survive deeper scrutiny

Take the United States itself. Worker participation in decisionmaking on the plant is more widespread in Europe than in North America: are we to then condemn North America to denial of trading rights by the Europeans? Migrant labour is ill-treated in US agriculture due to inadequate enforcement, if investigative television shows are a guide; does this mean other nations should prohibit the import of US agricultural products? Even the right to organize trade unions may be considered to be inadequate in the US if we go by "results", as the US favors in judging Japan: less than 20% of the US labour force is unionized. Strikes in essential industries are restricted: but the definition of such industries also reflects economic structure and political realities, making the US definition only culture-specific and hence open to objection by others.

Even the developing country phenomena such as the use of child labour raise complex questions (as indeed recognized by the ILO, though not in the arguments heard in the United States today). The use of child labour, as such, is surely not the issue. Few children grow up even in the US without working as babysitters or delivering newspapers; many are even paid by parents for housework in the home. The pertinent social question is rather whether children at work are protected from hazardous conditions. In reality, this problem applies to a rare few industries (e.g. glassmaking), contrary to the assertions often made.

Whether child labour should be altogether prohibited in a poor country is a matter on which views legitimately differ. Many feel that children's work is unavoidable in the face of poverty and that the alternative to it is starvation which is a greater calamity, and that eliminating child labour would then be like voting to eliminate abortion without worrying about the needs of the children that are then born.

Insisting on the "positive-rights"-related right to unionise to demand

higher wages, for instance, as against the "negative-rights"-related right of freedom to associate for political activity, for example, can also be morally obtuse. In practice, such a right could imply higher wages for the "insiders" who have jobs, at the expense of the unemployed "outsiders". Besides, the unions in developing countries with large populations and much poverty are likely to be in the urban-industrial activities, with the industrial proletariat among the better-off sections of the population, whereas the real poverty is among the nonunionised landless labour. Raising the wages of the former will generally hurt, in the opinion of many developing-country economists, the prospects of rapid accumulation and growth which alone can pull more of the landless labour eventually into gainful employment. If so, the imposition of the culture-specific developed-country-union views on poor countries about the rights of unions to push for higher wages will resolve current-equity and intergenerational-equity problems in ways that are morally unacceptable to these countries, and correctly so.

One is then led to conclude that the idea of the Social Clause in the WTO is rooted generally in an ill-considered rejection of the general legitimacy of diversity of labour standards and practices across countries. Wittingly or unwittingly, its proposed contents are also selectively focused currently on the practices of the developing countries, shielding the practices of the developed countries: those throwing stones at other people's glass houses have put fortresses around their own.<sup>1</sup> Thus, the alleged claim for the universality of labour standards is (except for a rare few cases such as slavery) generally unpersuasive; and the proponents of that view are inconsistent in turning their attention and political activism only to practices of countries in economic competition with their own instead of focusing on the practices on their own turf.

The developing countries cannot then be blamed for worrying that the recent escalation of support for such a Clause in the WTO in major OECD

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<sup>1</sup> If I might be permitted to say so, the recent report released by the Children's Defense Fund on the plight of black children in America argues that it is "worse than under slavery", and another recent report argues that nearly 4 million American children are at serious risk because of hazardous inner-city conditions. That such conditions obtain in one of the world's richest nations is sad and may be considered to be at least as disconcerting and morally offensive as the exposure of children to hazardous conditions in the world's poorest countries in glass-bangles-making, for instance.

countries derives instead from the desire of labour unions to protect their jobs by protecting the industries that face competition from the poor countries. They fear that moral arguments are produced to justify restrictions on such trade since they are so effective in the public domain. In short, the "white man's burden" is being exploited to secure the "white man's gain". Or, to use another metaphor, "blue protectionism" is breaking out, masked behind a moral facade.<sup>2</sup>

In fact, the salience which the Social Clause crusade has acquired in the US and Europe owes much to the widespread fear, evident during the NAFTA debate in the United States, that trade with the poor countries (with abundant unskilled labour) will produce unemployment and reductions in the real wages of the unskilled in the rich countries. The Social Clause is, in this perspective, a way in which the fearful unions seek to raise the costs of production in the poor countries as free trade with them threatens their jobs and wages. That this fear is unjustified by extensive analyses of the problem by economists recently does not reduce its potency in fuelling the demands for the Social Clause.<sup>3</sup>

#### What to do?

If this analysis is correct, then the idea of a Social Clause in the WTO is not appealing; and the developing countries' opposition to its enactment is justified.<sup>4</sup>

But if a Social Clause does not make good sense, is everything lost for those in both developed and developing countries who genuinely wish to advance their own views of what are "good" labour standards? Evidently not.

It is open to them to use other instrumentalities such as

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<sup>2</sup> "Blue" refers, of course, to blue-collar workers.

<sup>3</sup> The analytical arguments, and the empirical evidence, on the question of North-South trade and wages of the unskilled have been reviewed and synthesised in Jagdish Bhagwati and Marvin Kosters (ed.), Trade & Wages, American Enterprise Institute, Washington D.C., 1994.

<sup>4</sup> For alternative arguments against the Social Clause, see the interesting contribution by Professor T.N.Srinivasan of Yale University to this volume. Yet different arguments are provided by the editors of The Economist in two issues: in April 9, 1994 in an editorial and in June 4, 1994 in a reply in the Economics Focus column to Secretary Reich's criticism in an article in The Washington Post on May 22, 1994.

nongovernmental -organization (NGO)-led educational activities to secure a consensus in favour of their positions. In fact, if your ideas are good, they should spread without coercion. The Spanish Inquisition should not be necessary to spread Christianity; indeed, the Pope has no troops. Again, Mahatma Gandhi's splendid idea of nonviolent agitation spread, and was picked up by Martin Luther King, not because he relied on the false doctrine that "might is right" and worked on his government (which, unlike the US government, has no effective clout in any event) to threaten retribution against skeptics and heretics; it happened to be just morally compelling. In fact, I would add that one also has the possibility of recourse to private boycotts, available under national and international law; they are an occasionally-effective instrument.

If a multilateral consensus is achieved (and formally agreed to at the ILO afresh with perfect clarity and reflecting updated ideas of economics and ethics, especially now that such agreement may have serious consequences), on a moral view of an appropriate labour standard, and if it is then clearly understood that the signatories to such an agreement will be legally and morally entitled to seek denial of market access to other offending signatory nations through appropriate and agreed multilateral procedures that first seek an impartial determination of such alleged violations, then we can proceed with a desired suspension of that offending nation's trade rights with a clearer conscience and a sense that we are indeed proceeding justly and sensibly. But, if we do that, we already have multilateral procedures and institutions available to proceed with the next step of actually invoking multilateral action on suspension of trading rights, making the necessity of a Social Clause altogether unnecessary in any event.

Thus, under UN-sanctioned embargo procedures, which take precedence over GATT and other treaties, South Africa's GATT membership proved no barrier to the embargo against it precisely because the world was virtually united in its opposition to apartheid. Even outside of such UN action, however, the GATT waiver procedure permits 2/3rds of the Contracting Parties to suspend any GATT member's trading rights.

Suppose, however, that American or German public opinion on an issue (as in the Tuna-Dolphin case for the former and the beef-hormone case

for the latter) forces the government to undertake a unilateral suspension of another GATT-member's trading rights when a multilateral consensus does not exist. There is nothing in the GATT, nor will there be anything in the WTO, which will then compel the overturning of such unilateral action. The offending Contracting Party can persist in a violation while making a compensatory offer of an alternative trade concession or the offended Party can retaliate by withdrawing an equivalent trade concession.<sup>5</sup> Thus, unless one resents having to pay for one's virtue (since the claim is that "our labour standard is morally superior"), this is a perfectly sensible solution even to unilateralism.

Whether these sensible resolutions to the issues at hand will be accepted by the US-led coalition at the WTO, or whether they will persist in the pursuit of the Social Clause, is hard to predict. Governments must necessarily reflect, to an extent, pressures to advance the proposals favoured by different lobbies. Academics such as myself, on the other hand, must hope that our analysis in the interest of the public good will countervail effectively the bad proposals and steer the government towards the good proposals. Only the unfolding events will tell who will prevail.

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<sup>5</sup> The latter is evidently an inferior option; but that is still another story!

TRADE AND WORKERS' RIGHTS;

A PROPOSAL

By

Abraham Katz

President

United States Council for International Business



Precis of the Proposal

The organized American business community and most foreign employers' organizations have long opposed the "Social Clause," i.e., using trade sanctions to enforce workers' rights. They grasp its protectionist origins and objectives aimed, for the most part, at developing economies and emerging markets. Business believes that workers' rights and interests can best be advanced by sound economic development based on full participation in the trade and investment system. The experience of the International Labor Organization is relevant, in particular with respect to its voluntarily accepted international instruments (loosely called the "labor code"), its supervisory machinery based on "sunshine not sanctions," policy advice to governments, and technical cooperation.

So far, the U.S. has consistently failed to get either the OECD or GATT to consider the subject. The ICFTU has similarly failed in the ILO. Given the Administration's current interest, the effort to get the subject discussed may get a bit further, but it is the assumption of this paper that LDCs and a good many industrialized countries would block any attempt to change the rules of the GATT to the extent proposed by the ICFTU.

This paper lays out an alternative carrot and stick approach not subject to the voting rules of the GATT or the ILO. It is based on American experience with GSP in enforcing workers' rights and on the formula employed in NAFTA. It is also based on the ICFTU call for the elaboration of a Social Charter of Workers' Rights, and for supervisory machinery patterned on the ILO's Committee on Freedom of Association.

The sequence suggested is:

1. Convince the quad countries and then as many as possible other donor countries to join the U.S. in making workers' rights a condition for granting GSP.

In this connection, the developed countries should first explore ways they could harmonize their various systems further in the direction of being more generous with respect to sensitive items.

2. If the above phase is successful, invite the recipient countries to a negotiation to establish a "social charter." The purpose of this charter would be to identify and, in a few sentences, to define each of the basic workers' rights. The paper points out discrepancies between the ILO listing, that of ICFTU and of the U.S. The negotiation might be held under the auspices of ILO where the international expertise on labor standards resides. The carrot to get countries to such a negotiation would be the promise of improved multilateral GSP and the stick would be the threat of combined simultaneous withdrawal of these benefits by the donor countries.

## ii.

3. Having identified and defined the "rights" in the charter, countries would commit to adopt and implement legislation giving effect to these rights. Supervisory machinery would be established, patterned, as suggested by ICFTU, on the ILO's Freedom of Association Committee, a tripartite committee with a remarkable record of hearing and recommending action on cases involving that basic worker right (not based on the technical details of Conventions 87 and 98 on the subject). However, unlike the ILO's Freedom of Association Committee, the new tripartite supervisory committees for each covered basic right would determine if there existed a "persistent pattern of failure" to enact or to enforce the legislation required by the Social Charter. This paper leaves open the question of where these committees are to be housed.

4. In the event of a positive finding, the Committee would call on the country concerned to mend its ways, possibly with the help of technical assistance by ILO experts. If that failed and subsequent exhortation also failed, the government concerned would be fined as in NAFTA. A commitment to pay such assessment would be a condition to adherence to the Social Charter. Finally, and in the last analysis, the issue would be turned over to a Committee of GSP donors which could invoke the withdrawal of GSP benefits in whole or in part.

There would obviously be considerable opposition to begin with among donor countries, both to the principle of conditioning GSP on workers' rights as well as to sweetening the pot of GSP. The political opposition of many LDCs could be anticipated as could even that of the ILO bureaucracy, who would see it as a threat to existing ILO conventions and ways of doing business, and even of the trade unions which, although they conceived the idea of a social charter, see it as a way of introducing countries to the more detailed technical standards of ILO, which neither the U.S. nor many LDCs can accept.

On the other hand, GSP is a unilaterally extended benefit that could be unilaterally withdrawn and it is argued that the scheme presented below at least avoids most of the legal and procedural traps and meets some tests also set forth below that any scheme linking trade and workers' rights will have to confront if it is to be successful.

## Introduction and Summary

U.S. employers and the overwhelming majority of foreign employers organizations with which they are affiliated have been unalterably opposed to the social clause. They see it as a protectionist device, which impacts business arbitrarily and leads to uncertainty and friction in international commerce. The history of the social clause from the beginning of the industrial revolution in Europe certainly supports that view. Recently, however, certain industrial circles in Europe--notably those that fear competition from low-cost imports, supported by the French Government and parts of the European Commission--have again raised the Social Clause as a post-Uruguay Round issue.

The current Administration has now pledged itself to work for some form of the social clause, which has been an American negotiating objective for many years. Given the open trade policies of President Clinton, it must be assumed that the primary motivation of the Administration is genuinely advancing workers' rights around the world. This is probably also the primary concern of the AFL-CIO and many elements in the ICFTU.

The business community continues to hold that the best means of advancing the rights and interests of workers is through sound economic development focusing on employment creation buttressed by the efforts of the ILO which are based on voluntarily-accepted international instruments supervisory machinery based on "sunshine not sanctions," policy advice to governments and technical cooperation.

However, in view of the genuine commitment of the Administration and of the trade union movement, this paper examines the constraints and requirements and the nature of a possible arrangement in which trade measures could be used to advance workers' rights. It represents the personal views of the author. The analysis and suggested strategy stemming therefrom are based, *inter alia*, on experience with this issue in OECD, GATT and ILO over the years, on some recommendations of the ICFTU, and on the experience of the U.S. with GSP and NAFTA. It assumes as a political fact of life bolstered by the voting arrangements that any attempt to raise the issue in the GATT (WTO) or ILO would get nowhere.

The analysis contained in this paper leads to the conclusion that the trade measures to be employed could only be GSP, unilaterally offered by donor countries and whose benefits therefore are subject to unilateral withdrawal; that to increase the clout of withdrawal of benefits, the U.S. will need to convince other Quad and other GSP donor countries to adopt similar social provisions in their schemes (a difficult political task); that to provide a carrot and mitigate a North/South confrontation, the scope of GSP should be increased, i.e., the GSP pot should be sweetened. This may mean adversely impacting the very industries in developed countries (e.g., textiles) where unions and (in some countries) managements have been most vociferous in advocating a social clause.

The purpose of this carrot and stick is to bring a sufficient and representative number of developing countries together with the main industrialized countries to a negotiation aimed at establishing a social

charter. The purpose of this charter would be to identify and define the basic workers' rights to be covered by the scheme. Since there is no customary international law in this field, since the ILO conventions, because of their overly technical and detailed nature, are inappropriate bases for such a scheme, and since relying on them would put the U.S. in an untenable position because of its inability to ratify most of the ILO's basic rights instruments, the negotiation of such a charter (a suggestion of ICFTU) would be an essential requirement.

Adherents to the charter (developed and developing countries) would pledge the passage of laws and their implementation to translate the principles of the document into reality. Supervisory machinery, patterned after the ILO's tripartite Committee on Freedom of Association, would be established for each basic right in the charter (another ICFTU suggestion). Cases could be brought if there are allegations of "persistent pattern of failure to enforce" (the NAFTA approach). If findings are reached of such failures, technical cooperation to improve performance would normally be the first action, followed by the possibility of fines (charter adherents might be asked to commit themselves to pay such fines). Trade sanctions in the form of withdrawal of GSP benefits to a specified amount by all GSP countries would be the last resort to enforce the collection of fines.

This paper does not underestimate the political difficulties of persuading first our industrialized country partners, then the developing countries as well as the international trade union movement and business organizations that this is the way to go. But it is the only approach that avoids the basic trap of the unfavorable voting arrangements in existing multilateral institutions, and it is the best hope for advancing workers' rights while minimizing the opportunities for doing so as a cloak for protectionism.

### Background

The USG is committed to raising the issue of workers' rights and trade at Marrakesh and to launching a work program in the GATT on this subject, commonly called the Social Clause. Even though the procedural step has been opposed in recent Geneva discussions, the issue is still very much alive.

The French Government, certain French business interests, and parts of the European Commission have also raised the issue for post-Uruguay Round consideration. The more liberal trade-oriented members of the European Community are opposed or skeptical as are liberal trade-oriented Commissioners.

The AFL-CIO and the ICFTU have pushed in many documents and forums, notably but not exclusively the ILO, for a Social Clause. There has been some Congressional support--notably Representative Richard Gephardt's proposal for blue and green 301s.

The trade unions, with the AFL-CIO in the lead, have pushed over the years for the Social Clause in almost every relevant forum. In recent years, the OECD has refused to take up a U.S. Government suggestion to study the linkage between workers' rights and trade, and despite the fact that the U.S. Government has been mandated to press for the social clause as a negotiating objective, GATT has not acted on this initiative and turned down a U.S. proposal to set up a working party to study the issue. The ICFTU raised it in the ILO unsuccessfully in November 1990.

Opposition to the notion has been widespread in GATT and ILO. The social clause has been widely perceived as having protectionist motivation or at least subject to protectionist abuse. It has been most vehemently opposed by developing country governments and by employers in most countries, while developing country trade unions have been ambivalent and have been silent as ICFTU has renewed its campaign.

To date, references to workers' rights in international agreements have been mainly hortatory and preambular, with no explicit provision for trade sanctions. The innovative breakthrough came in the NAFTA side agreement on labor, which may offer some interesting precedent as discussed below.

In addition, the United States has incorporated sanctions related to workers' rights in some of its unilateral trade legislation, notably GSP, CBI, OPIC and U.S. participation in MIGA. It has invoked procedures in the case of a number of countries to withdraw trade preferences under GSP for failure to improve worker rights (notably Chile) and has used the withdrawal of GSP as a club to obtain improvement in labor laws and practice in countries such as Indonesia and Costa Rica. Here too there is an interesting precedent. Section 301 of the 1974 Trade Act incorporates the Pease bill on workers' rights (but does not call them internationally recognized worker rights). No workers' rights cases have been brought under the Trade Act. Obviously, there is the restraint that any action to raise a bound tariff must either be compensated or is subject to retaliation.

### The Issue

Is it possible to devise a strategy that would lead to an arrangement linking sanctions in the trade and economic area to progress in the area of basic workers' rights that would meet the following requirements?

#### 1. Reasonable chance of negotiability and acceptance.

At the present time there is no doubt that the configuration of forces in both ILO and GATT would lead to outright rejection by the developing countries, by most liberal trading governments, and, in the case of the ILO, by American as well as other employers (who have a vote in that tripartite institution). Since virtually all trade tariffs of the industrialized countries are bound under GATT, or soon will be following entry into force of the Uruguay Round, any scheme involving withdrawal

of concessions against an offending country would, under GATT, entail compensating that country or be subject to retaliation and would be in violation of Article I (non-discrimination). If concessions were withdrawn on an MFN basis, innocent parties would be hurt. Amending GATT/WTO would require consensus.

2. Is aimed at Government performance not business-foreign or domestic. The major objective of any arrangement should be to encourage Governments to adopt progressive labor codes where they do not exist and to enforce their labor laws where reasonably satisfactory legislation does exist. The U.S. should not exercise extraterritorial reach on its companies operating in developing countries or on any U.S. subsidiaries of companies from those countries to enforce its views of good practice on their home country. Other developed countries would never do so and such actions would create frictions with the country concerned as well as potentially discriminatory retaliation against American enterprises abroad.

The NAFTA agreement broke new ground in penalizing governments through fines for a persistent failure to administer laws embodying certain labor rights. Trade sanctions are provided for only as a backup to snap back to the original pre-NAFTA rates (i.e., the MFN rates) to the degree necessary to assure collection of the specified amount of the fine. This should provide the model.

3. Is multilaterally negotiated and freely accepted by most countries. One of the criticisms of the U.S. GSP arrangement is what one scholarly commentator calls "aggressive unilateralism." While U.S. unilateral trade concessions can be withdrawn by unilateral decisions without violating any GATT obligation, the result in terms of political relations cannot in the long run be satisfactory. It is important that whatever arrangement is worked out involved the most important industrialized countries (i.e., the Quad, G-7) and a representative group of developing countries (most importantly, the newly industrialized countries and major trading powers among the LDCs).

4. Is fairly and impartially administered. While there is no reason to complain about the way the interagency process has worked in the United States (although unions have complained about lack of prosecutorial zeal shown under Republican administrations), an international process open to both trade unions and employers groups alike will be needed to convey impartiality.

5. Concentrates on the promulgation and acceptance of a finite set of basic workers' rights in sufficient generality and with sufficient flexibility to be universally acceptable. This rules out ILO conventions as the benchmarks. These are detailed technical instruments mainly reflecting the European system of industrial relations which, with only one exception so far (one of two forced labor conventions), have not, and could not, be ratified by the United States. (Ratification of ILO Conventions in the United States is subject to tripartite agreement that a Convention does not conflict with U.S. law and practice. As is

mentioned above, only one basic rights convention has been ratified and it is doubtful if many of the others are ratifiable.) The U.S. cannot be put into the position of enforcing conventions it itself cannot ratify. In fact, the U.S. view is that there is no customary international law in this area, and although some U.S. legislation refers to "internationally recognized workers' rights," the USG in its administrative actions has invoked general principles relating to workers' rights which, for the most part, have been violated in egregious circumstances. The actions of the U.S., in other words, have therefore been political acts pursuant to the authorization of U.S. law, not the enforcement of either customary international law or ILO conventions. The problem for many developing countries (as well as for the United States) is that the level of detail does not permit them to ratify ILO conventions or, if they do, the conventions are to a large extent unenforced.

### A Suggested Strategy

To identify the constraints and requirements is to narrow the choices open to the U.S. Government.

To take the matter up in the GATT would be clearly a non-starter. The LDCs would never agree to imposing a test involving their domestic legislation and labor practices with the prospect of setting aside their rights and balance of concessions in the GATT. It is not sufficient to point to the precedent referring to prison labor and the other oblique references to worker rights in the GATT to convince them that adherence to a code or charter or certain other new principles of behavior is, to use the words of the ICFTU, their price for admission into the trading system. They, for the most part, are already in it and will not accept a retroactive entry fee, especially one which has a hoary history linked to protectionism (the Cost Equalization Act of the U.S. and similar measures in the U.K. and other countries). This is especially so since, in Europe, some proponents of the social clause are more vocally interested in protecting domestic markets from the threat of low-cost imports under globalization, than in the U.S. where there is a more genuine interest in advancing workers' rights.

Nor would it be desirable to turn the GATT into a labor rights organization, a role for which it is ill-equipped and which would require an entirely new structure. Again, it is doubtful if the U.S. could rally many other developed countries to such a position.

Taking up the matter in the ILO would be no more successful now than in previous years. The tripartite voting structure of that organization would block such a move just as would the voting rules in the GATT. The ILO modus operandi is based on the promulgation of international conventions freely accepted (ratified) by the members and the elaborate supervisory machinery is based on "sunshine not sanctions." It is not likely that this could be changed. Nor would it be productive or in the interests of the United States to build on the detailed corpus

of ILO's international labor legislation which it could not itself accept.

The strategy suggested builds on a number of elements:

First, the precedent in the United States of enforcing workers' rights by withdrawing unilaterally-granted trade benefits such as GSP.

What will bring developing countries to the table to accept that their legislation and practice with respect to workers' rights in some way be related to the benefits they derive from the trading system. As was pointed out above, the rules and voting structure of the GATT deprive the U.S. and other developing countries of any leverage on this issue in that organization. The proposal is made here that the first requirement is for the U.S. to convince the Quad countries and others who grant GSP to make it a condition of continued GSP that recipient countries negotiate on and accept the obligations to assure certain basic workers' rights defined in a social charter outlined below and adopt the necessary implementing legislation. In other words, the United States would not be the only country to have such a labor rights provision in its GSP law.

Recognizing that a number of our developed country trading partners might resist this step, even though it would be entirely legal under GATT, on the grounds that it might provoke a major North/South cleavage, it would be necessary as part of the process for the Quad and other GSP countries to agree to offer a considerable sweetening of the GSP by, for example, reducing the exceptions list or tightening the criteria for "graduation." In other words, the basic bargain outside the GATT is an enhanced multilateral GSP but one that is conditional on adherence to and implementation of a World Charter on Workers' Rights.

Second, the proposal of the ICFTU World Charter on Workers' Rights (Social Charter).

This charter would identify and define the main workers' rights to be covered by the arrangement. The first task in negotiating the charter would be to identify the basic rights standards that would be included. There are differences between what the U.S. has considered to be these rights under its trade law and what the ILO has so considered. The U.S. and ILO both consider freedom of association, the right to organize and collective bargaining, and the prohibition of forced labor, to be basic rights. The ILO would add discrimination, equal remuneration and employment policy. The U.S. would add minimum age of employment and minimum wages of work and occupational safety and health. However, both child labor and occupational health conventions have low numbers of ratifications. The ILO has never been able to define a minimum wage.

Following the identification of which rights should be included in the Social Charter, the next difficult step is the negotiation of the definition of each right. Such definitions would be sufficiently general to cover both developed and developing countries and constitute as it



were the "essence" of each right. Being a statement of principles rather than a legal text, the actions under the enforcement provisions would be more political than judicial in nature.

It should be stressed that negotiating both the identification and the detailed definition of these rights will not be easy. The E.C. was not able to negotiate such a statement with the Yaounde countries, but the U.S. was able (after some difficulty) to negotiate one sentence "guiding principles" for such rights in the case of NAFTA side agreement. These principles were unrelated to the details and language of ILO convention, and might be a model for the new charter.

Nevertheless, if the requirements listed above are to be met, there is no alternative to establishing such a charter in a negotiation among developing and developed countries. Attempting to dictate such a charter to developing countries would be a failed and foolish enterprise.

Three interrelated questions remain: Where would such a charter be negotiated? Should it be negotiated by governments only or on a tripartite basis? What relationship should such a charter have to ILO conventions?

The ICFTU, seeking to have it both ways, sees the charter as an introduction or transition to ratification of ILO conventions. They have resisted reform of ILO standard setting and the revision of ILO standards to make them more compatible with today's emphasis on job creation and competitiveness. Yet they see the charter as linked to ILO conventions. Such a link is neither obvious nor necessary, and, from a U.S. point of view, it would be counterproductive. It should be totally ruled out. If such a position is criticized as weakening the structure of ILO standards, so be it. Indeed, the negotiation of a charter might force greater flexibility and sense in the ILO process. Neither U.S. employers nor the U.S. Government nor, for that matter, U.S. labor should bemoan that effect.

As to the first two questions, in reverse order there would be merit in a tripartite negotiation since it is the labor unions which are pushing for this issue and therefore the ILO is a logical venue for such an ad hoc negotiation. It has established labor and employer representatives and the machinery and precedents to organize it.

This arrangement would not be perfect. None of the tripartite parties in the ILO has trade experience and so the mandate of this negotiation should be strictly limited to identifying and defining the basic rights. Furthermore, trade unions, most governments, and some employers representatives will have an institutional vested interest in the closest possible identification of the charter with ILO standards and, as will be discussed below, with the ILO machinery. It is difficult to see how this can be avoided even if the Quad or G-7 were to order a free standing negotiation. The only thing that can be done is to have clear terms of reference dictated by the Quad or the G-7.

Third, the proposal of the ICFTU to establish tripartite panels patterned on the Freedom of Association Committee of the ILO to adjudicate cases brought on violations of each right.

Every country member of the ILO, whether or not it has ratified the applicable convention, is subject to the jurisdiction of the Freedom of Association Committee of the ILO Governing Body. This is a tripartite committee with a rich experience of dealing with complaints brought against countries for violating this basic worker right--perhaps the most important one for trade unions and, in some countries, for employers' organizations. Over the years, a certain amount of "jurisprudence" has developed, but the Committee, for the most part, is not overly legalistic and generally deals with the heart of the issue. The ICFTU's suggestion to emulate this model for the other basic rights defined in the charter makes sense, provided that the terms of reference of the committees limit them to examining the application of general principle in the general orientation of countries' law and practice and not in specific provisions of legislation. The proposal would give the employers a voice and is best calculated to assure all countries and interests of impartiality and disinterestedness. This paper leaves open the question of where these committees are to be housed. The obvious place for tripartite committees dealing with workers' rights would be in the ILO, but they should not be integrally linked thereto for the reasons stated above.

Fourth, the precedent of NAFTA that the role of the supervisory machinery as described above is to establish whether there exists a persistent pattern of nonenforcement of domestic laws relating to the charter's defined rights.

Adherence to the charter would be voluntary. It would, of course, have been negotiated by a representative tripartite working party of developed and developing countries. Adherence would carry with it the obligation to enact and enforce domestic legislation and the NAFTA precedent would limit complaints brought to the supervisory machinery of a "persistent pattern," etc., not to isolated cases as are brought to the ILO's Freedom of Association Committee.

Fifth, the suggestion of the ICFTU, the practice of ILO and the intention of NAFTA that when such a "persistent pattern" exists the first remedy after exhortation should be technical cooperation. In other words, the precedents of ILO should be used prior to consideration of sanctions.

Sixth, the ultimate threat of sanctions should be patterned on NAFTA. It would be desirable if countries adhering to the charter should agree to follow the pattern of NAFTA and agree to pay monetary fines if the exhortations and technical cooperation fail and the tripartite panels continue to find a "persistent pattern." As in the case of NAFTA, the use of trade sanctions should be the last resort if an offending country refuses to pay the fine and persists in its action. At that point, the trade sanction should be the withdrawal of GSP on trade amounting to a previously agreed amount (as was also done in NAFTA).

The difference, of course, would be that this action would be simultaneously applied by all GSP donor countries and the impact consequently much greater. And it will have been taken pursuant to the recommendation of an impartial multilateral tripartite panel.

Other machinery could be added. For example, a conference of the signatories of the charter to approve the action by a vote (to be determined).

### Conclusion

The above arrangement will not be easy to negotiate given the long association of the social clause with protectionist objectives. It would have to be negotiated first in the Quad where other countries must be convinced that the objective of adding carrots and sticks to GSP for the purpose of advancing workers' rights is worth risking their domestic interests that will be adversely affected and provoking confrontation with developing countries.

It would then have to be sold to the LDCs themselves which individually have not yet raised a massive protest against the U.S. unilateral system, but would probably not react with enthusiasm to this major new condition on GSP by all donors. They have come to regard GSP as their right. They have resented "graduation" and would consider such an action a major upheaval of the North/South balance in trade policy. Thus, even though they would have no legal basis for opposing it, there must be some incentive to bring them to the bargaining table (i.e., the proposed "sweetening" of the GSP system).

Finally, such an arrangement might very well be resented and resisted by the entrenched bureaucracy of the ILO and, indeed, of the ICFTU which has been its main support. Even though a number of ideas have been borrowed from ICFTU, the conservative elements in both ILO and ICFTU would see such a scheme as undercutting the ILO and setting up parallel machinery alongside it.

However, the choice is clear. If the notion of applying some bite to the advancement of workers' rights is to get anywhere, a strategy to advance this objective must steer clear of the legal quagmires of both GATT and ILO. The political difficulties of pursuing the above strategy would be challenge enough without encountering impossible constitutional obstacles defended fiercely by entrenched interests.

Attachment to prepared statement of Ambassador Katz

## TRADE AND WORKERS RIGHTS

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Prepared for The European Institute  
Transatlantic Joint Action Initiative  
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Regardless of whether one favors or opposes linking international trade with improvement in workers rights around the world, the fact is that the issue is firmly in place on the post-Uruguay Round agenda, (though its institutional implications are not yet entirely certain). This paper begins by examining a bit of the history of this issue, then looks at some of the U.S. and European ideas which have been floated recently to deal with it and concludes with comments focusing on the objectives being sought, the problems involved in using trade action to achieve them and some suggestions for further work in various institutions, including alternatives to the use of the GATT/WTO mechanism as the vehicle of choice.

History

As those promoting the case for linkage never tire of reminding us, this is not by any means a new issue. They usually go back at least to the Versailles conference of 1919 which established the International Labor Organization charged with the task of promulgating international labor standards. Though the conventions embodying these standards do not become legally binding for a state until ratified by it, Article 33 of the ILO Charter does contain provisions for "sanctions." However, the only effective recourse to the use of economic sanctions is through a decision of the ILO Governing Board pursuant to a judgment by the International Court of Justice. Sanctions, in fact,

have never been applied.

Actually, the history of the relationship between domestic labor standards and trade goes back to the early 19th Century, and surfaces periodically throughout the century preceding Versailles. Towards the end of the 19th century, the cause was also taken up in the U.S. with the enactment of a law in 1890 banning the importation of goods made using prison labor. (This was, of course, subsequently replicated in the GATT--Article XX(e)--along with other U.S. legislative requirements dating from this general era--the countervailing duty law, for example).

The idea of enforcement of workers rights through trade sanctions got its first major international boost in the 20th century through the ITO Charter. Article 7 provided that "on matters relating to labor standards that may be referred to the Organization in accordance with the provisions [on dispute settlement]", the ITO shall consult with the ILO. Some commentators have argued that linking observance of workers rights (at least as embodied in ILO conventions) with ITO dispute settlement processes effectively establishes the legitimacy of using trade sanctions to enforce those rights. However, apart from the fact that the ITO was never ratified, the argument is weak on other grounds, as will be discussed later.

The next (again unsuccessful) U.S. effort to address the issue in the GATT was during the Eisenhower administration. More recently, the U.S. also tried to get a GATT

working party established when the Uruguay Round was launched in 1986 and, of course, the 1988 Trade Act mandated one of many U.S. negotiating objectives to be the adoption of a new GATT principle that denial of workers rights not be a means of gaining competitive advantage. The current Administration cites this as one of the main reasons for its renewed effort in the GATT, which is fair enough. However, it overlooks the fact that other Congressionally mandated negotiating objectives were also not achieved in the Round and have not received quite as much effort as has this one.

But enough history. What do the two main players--the U.S. and E.U.--propose to do about the issue in the months ahead?

#### U.S. Ideas

.. It is a bit difficult to get a handle on exactly what the U.S. wants. As Ambassador Kantor has put it "what we are trying to do, of course, is to tie internationally recognized labor standards to trade." However, this begs more questions than it answers. For example,

- 1) Exactly which "internationally recognized" labor standards are involved?  
"Recognized" by whom?

- 2) What exactly is the purpose of the "tie"? Is it mainly an academic exercise, designed to show there is a link and draw some conclusions about it? Or is it to establish that failure to enact or enforce such standards should be a new reason to take import restrictive action under GATT rules?

While Kantor has not been entirely clear in answering these questions, other more concrete proposals have surfaced. For example, Congressman Gephardt has promised (but so far not delivered) a bill to establish a new "blue" 301 authority. Though failure to enforce workers rights is already a cause of action under Section 301, the assumption is that Gephardt's proposal is to "give it more teeth" (e.g., set up a process analogous to Special 301 whereby the government would be required to identify the more egregious offenders and initiate 301 action under a fixed schedule that would ultimately lead to sanctions).

More concretely, Gephardt and Congressman Richardson have introduced a bill (H.R. 4375) which would set up a modified form of fast track rules for considering a prospective free trade agreement with Chile, but only if the Rules Committees of both Houses agreed that the agreement itself (not any hypothetical side agreement) contained provisions on the environment and workers rights, including "dispute resolution mechanisms to enforce effectively" such provisions. The rights in question would be those specified in U.S. GSP legislation: right of association; right to organize and bargain collectively; prohibition on the use of forced labor; a minimum age for



employment of children; acceptable working conditions regarding minimum wages, working hours and occupational safety and health in the work place. Though such legislation could probably pass the House, Senate approval is more problematic. However, it should leave little doubt that there is wide-spread, if not yet majority, support in Congress for the use of trade sanctions to enforce our concepts about acceptable labor standards.

Perhaps the most articulate formulation of the Administration's approach was given in a recent address by Labor Secretary Reich at an April 25 symposium on international labor standards. Reich recognized that, beyond a short list of "core" standards (e.g. right of association, collective bargaining, child and forced labor), "it is inappropriate to dictate uniform levels of working hours, minimum wages, benefits or health and safety standards. The developing countries' insistence that they must grow richer in order to afford [high] standards--and that they must trade in order to grow richer--is essentially correct."

However, he went on to insist that countries with high standards have a legitimate interest in assuring that standards in developing countries in fact do improve as they grow richer, and he proposed a two part test to determine that. His conclusion was that:

"Where there are reasonably robust democratic institutions, we can presume that labor conditions reflect what the country can afford given its level of

development. [For other countries] trends in labor standards and economic inequality offer a second sort of metric...If a country lacks democratic institutions and fails to disseminate the benefits of growth, others might conclude that low standards are due...to political choices..."

In the latter case, Reich offered three principles to guide policy:

- 1) Any intervention should be authorized and implemented multilaterally.
- 2) There should be a "menu" of possible responses, ranging from technical assistance up to sector-specific or general trade restrictions.
- 3) Action that fails to effect change is a waste of time.

Which of these ideas, or some other variant, will eventually be put forward as formal U.S. policy is, of course, anybody's guess.

### EU Ideas

The most current European suggestions are those in a paper prepared by Leon Brittan and approved by the EU Commission in late March. The paper sets forth the proposition that E.U. action "in the field of external relations" to pursue social policy

objectives is legitimate and embodied in various EU legal instruments. However, it rejects the idea (which seems to dominate most American thinking) that such action should be focused mainly on trade and in the WTO. In fact, the Brittan paper lays heavy emphasis on action in the ILO and in support of implementation of various core ILO conventions.

In that regard, the paper goes on to discuss a key point that is glossed over in the U.S. rhetoric about "internationally recognized" workers rights. The Brittan paper stresses that "it would be necessary, in order to serve as a reference in E.U. external relations, for ILO conventions to be ratified both by us and the third country concerned."

Recognizing that this may not often be the case, the paper suggests other alternatives, including making a country's practices on labor rights a subject for surveillance under the WTO's Trade Policy Review Mechanism. "It would also be possible to create a workers rights Code, of the sort now in place for intellectual property, so that breaches of ILO conventions [emphasis added] became subject to multilateral dispute settlement...In the multilateral field, sanctions are possible only after a multilateral finding that a country has failed to meet its obligations and has refused to conform to an adverse judgment...Sanctions would form part of a multilateral code on workers rights" but, again, the implication is that the Code would be grounded in ILO Conventions accepted by all the parties.

The concepts in the Brittan paper are recognized as controversial and may well not be agreed by some E.U. members. In the absence of that agreement, the ideas it offers are not yet official E.U. policy.

### Critique and Alternatives

Despite the elaborate justification and appeals to history, the arguments of advocates of the use of trade sanctions to enforce labor rights really boil down to just two main issues.

The first is whether the denial of rights does in fact confer a competitive advantage on either a nation or its enterprises against which it would be reasonable for GATT rules to authorize a response through the withdrawal of trade concessions. The second is, if the answer to the first question is yes, is there, or is there likely to be, an international consensus on a set of labor standards which all WTO parties would be legally obliged to adopt and observe. This is an essential element, because nothing less than failure to observe a legally binding obligation could justify the withdrawal of a legally binding trade concession under either GATT or WTO rules.

As to the first issue, most of us in the business community believe that, as a general principle, the denial of workers rights, apart from the use of prison labor to produce goods for export, does not confer a competitive advantage, either on countries

or companies. In fact, the weight of both evidence and experience suggests that the higher the level of such standards, the more competitive and prosperous is a society or its enterprises which compete in the global economy. Since we see no prima facie evidence that low or denied standards endow a competitive advantage, there is no reason to suppose that failure to enact or enforce such standards creates trade or market distortions.

Now, we are willing to have that conclusion tested by rigorous, objective analysis in an institution competent to do the job. In our view, however, the GATT/WTO is not the right institution. The analytical capability of the GATT Secretariat, even after transformation into the WTO, will remain skeletal at best. When an issue is raised in the GATT, it is because there is a need for analysis which will lead to a conclusion about whether there is a need to change or clarify GATT rules. While the GATT Secretariat is competent to assist member countries in elaboration or enforcement of GATT rules, it is simply not equipped to do independent analysis of the theory and consequences of linkage as an academic exercise. It is obvious that most developing countries understand that giving a mandate to the GATT implies a need for new rules, which, of course, is why they are so opposed to doing it at all.

This leads to the question of what the purpose of this exercise really is.

-- If analysis is the objective--for example, to test the validity of the thesis that low standards create competitive advantage--the OECD would be a much better institution. Its analytical strength and resources are focused on those countries which are thought to suffer the competitive disadvantage and which are the home of most of the companies which trade and invest internationally. It is ideally placed for such a project.

-- If improvement of workers rights around the world is the objective, (rather than just to establish a link to trade) the proper institution would be the ILO, reinvigorated by determined and focused U.S. leadership.

-- Only if the objective is to change GATT rules to permit trade sanctions to enforce higher standards would GATT be the right forum. However, that raises the second question referred to above. There is, in fact, no broad based international consensus on legally binding standards.

This is evidenced by the fact that we in the U.S. have found it impossible to ratify most of those ILO conventions dealing with what we think of as the most basic worker rights, including freedom of association, the right to strike, child labor or even one of the two on prison labor.\* The reasons vary in each case, but the underlying reality is that these conventions--which it must be emphasized are the only legally binding labor

\* See summary on ratification status attached at Annex 1.

standards that can claim even remotely to be "internationally recognized"--are simply contrary to U.S. law or practice. Many of these conventions are based on European legal concepts, such as, for example, vesting many workers rights in labor organizations rather than in the workers themselves. They conflict with our approach and are therefore not acceptable. Until that basic situation changes, there is very little possibility of a future international consensus on legally binding obligations which would justify withdrawal of legally binding GATT rights for failure to enforce.

Some advocates of this policy maintain that we need not use ILO Conventions as the standards to be enforced. They propose instead the negotiation of a simpler set of principles, (for example, as contained in Annex A to the North American Agreement on Labor Cooperation). However, this suggestion finesses a key point: the NAFTA agreement only requires that countries enforce their own laws implementing the core principles. Further, a judgment that a party has shown "a persistent pattern" of failure to enforce only calls forth trade sanctions if the party refuses to pay a previously agreed "monetary assessment," and the sanctions are limited to collecting the amount assessed. Absent an agreement on what would constitute an agreed standard, a dispute resolution panel could only assess whether a nation was failing to implement its own laws--not internationally agreed laws. Further, without agreement among all parties about the penalty for failure to enforce one own laws, there would be no justification under GATT/WTO rules to take import restrictive action against the accused country. This is essentially why the NAFTA countries eventually accepted the logic of monetary

assessments. For practical purposes, therefore, the only other option for the use of trade sanctions is unilateral action.

The problem with unilateral--or at least not widely agreed--action is that, even if there were widespread agreement that low standards constituted an unfair trade practice, it would be impossible, in any meaningful sense, to quantify the effects on trade of differences among countries in either standards or enforcement. Thus, any trade restriction purely to punish would be arbitrary and subject to endless international litigation leading to a cycle of retaliation and counter retaliation when the trade action resulted in breaching a GATT rule or binding. Only if the enforcement action did not involve GATT bindings--for example, the withdrawal of a unilaterally-granted privilege such as GSP--could this problem be avoided. But if that were the case, there would be no need to study the issue in the GATT/WTO. Again, other vehicles for international discussion would be both better suited and almost certainly more productive.

This is not to argue that efforts to improve workers' rights around the world should not be pursued. It is only to show that the GATT is the wrong place to do it, and that use of trade measures to sanction poor performance is discriminatory against private parties, disproportionate, counterproductive and unworkable.

Alternatives open to the United States include developing a more thoughtful and concerted strategy for utilizing the ILO which is constitutionally charged with this task.



Impatience with the record of its performance, which in fact has been considerable overall, does not justify collapsing the workers' rights issue into the trade area with the clear danger of undermining the impressive achievement of GATT/WTO in the area of trade policy and trade liberalization. The issue of improving workers rights is being intensely debated on a tripartite basis in the ILO and needs to be resolved there, not in the GATT/WTO.

Rather than pursue international concurrence in the use of trade sanctions as the enforcement instrument of choice, the U.S. might try to build on the concept in the NAFTA agreement on labor cooperation discussed above. At least in the first instance, this system avoids penalizing private parties for actions from which they derive no significant benefit, for which they are not responsible and over which they have no effective control. Furthermore, ILO machinery and practices concerning consideration of complaints and conciliation may offer an appropriate vehicle for such a regime of assessments as a last resort, with the use (if any) of trade measures to assure collection of any fines subject to GATT rules to be agreed.

Finally, to the extent that the U.S. believes it must retain greater national flexibility to deal with these problems, it should be limited to withdrawal of unilaterally conferred benefits. It might also explore with other GSP donor countries the potential scope for working cooperatively together to offer both GSP carrots and sticks to promote higher standards for workers rights among GSP recipient countries (a concept

which is also alluded to in the Brittan paper). Though the practice of withdrawal of GSP benefits is regrettable, it at least does not risk undermining the trading system and unnecessarily burdening U.S. commerce in the way that an attack on GATT rules would.

**Ratification status of major trading partners for ILO Conventions  
referred to in point 1 of Secretariat note**

Source: Ratification list by Convention and by country at 31 December 1993, International Labour Organisation

1. **Convention 5 on minimum age (industry)** (1919)\*:
  - . not ratified by Germany, Italy or Portugal
  - . nullified because of ratification of Convention 138 by Belgium, Spain, France, Greece, Ireland, Luxembourg and the Netherlands
  - . ratified by Japan but not by the United States or Canada
  - . came into force on 13 June 1921
2. **Convention 138 on minimum age** (1973)\*:
  - . not ratified by Portugal, Denmark or the United Kingdom
  - . not ratified by Japan, Canada or the United States
  - . came into force on 19 June 1976
3. **Convention 29 on forced labour** (1930)\*:
  - . ratified by all EU Member States
  - . ratified by Japan but not by the United States or Canada
  - . came into force on 1 May 1932
4. **Convention 105 on abolition of forced labour** (1957)\*:
  - . ratified by all EU Member States
  - . ratified by Canada and the United States but not by Japan
  - . came into force on 17 January 1959
5. **Convention 111 on discrimination (employment and profession)** (1958):
  - . not ratified by the United Kingdom, Luxembourg or Ireland
  - . ratified by Canada but not by the United States or Japan
  - . came into force on 15 June 1960
6. **Convention 155 on health and safety of workers** (1981):
  - . ratified by Spain, the Netherlands and Portugal
  - . not ratified by Canada, the United States or Japan
  - . came into force on 11 August 1983

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\* ILO Conventions explicitly cited in European Parliament (Sainjon) report for inclusion in a social clause

7. Convention 87 on freedom of association and protection of trade union law (1948)\*:
  - . ratified by all EU Member States
  - . ratified by Canada and Japan but not by the United States
  - . came into force on 4 July 1950
8. Convention 98 on right of organisation and to negotiate collectively (1949)\*:
  - . ratified by all EU-Member States
  - . ratified by Japan but not by Canada or the United States
  - . came into force on 18 July 1951

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Subcommittee on International Development,  
Finance, Trade and Monetary Policy, of the  
Committee on Banking, Finance and Urban Affairs

Statement of

Jerome I. Levinson

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Mr Chairman and Members:

President Clinton has observed that, "as we bring into the orbit of global trade people who can benefit from the investment and trading opportunities we offer, we must ensure that their policies benefit the interests of their workers." What is true of trade is equally true with respect to development finance.

How do we ensure that the Bretton Woods institutions--the World Bank and the IMF--and the regional development banks, strengthen rather than weaken, the basic rights of workers, particularly in their borrowing member countries?

First, we do not have to reinvent the wheel. There is already an international consensus on core worker rights. The International Labor Organization (ILO) has rightly stated that, "freedom of association and the right to organize are the cornerstones of basic worker rights." The ILO has spoken on this

subject with clarity and with force. Article 2 of Convention No. 87 (1948)--ratified by 99 member countries, but not the United States-- declares: "Workers and employers, without distinction whatsoever, shall have the right to establish and subject to the rules of the organization concerned, to join organizations of their own choosing without previous authorization." Convention 98 assures the right to bargain collectively and to strike. If workers are not enabled to join unions of their own choosing and freely elect the leaders of such organizations, then, they are not in a position to bargain effectively with company or national authorities for the protection of worker interests.

Second, these core rights should be the point of departure for American policy with respect to worker rights in the international financial institutions (IFIs). The IFIs should be encouraged by the U.S. to use their influence --including their financial leverage--with their borrowing member countries to enable workers in those countries to defend their economic interests by organizing unions of their own choosing, free of government interference. The Bretton Woods institutions would thus be complementing their sister UN affiliated organization, the ILO, in enabling workers in borrower member countries to look out for the interests of their members and intervene on behalf of workers not so well organized. This approach is preferable to trying to determine from afar labor standards in individual countries.

Third, this can only be accomplished in the IFIs if there is

a change in the culture of these institutions which elevates worker rights to the same plane of importance as financial reform and the creation of incentives for foreign investment. I have addressed this issue in a report prepared for the Economic Policy Institute, issued today: New Priorities in Financing Latin American Development: Balancing Worker Rights, Democracy and Financial Reform. Suffice it to say that there is today a complete imbalance in the priorities in these institutions to the disadvantage of worker interests.

Fourth, in bringing about this change in the culture of these institutions, the U.S. Executive Directors (EDs) of the IFIs can play a key role. Fortunately, we have in place with the Clinton Administration, in the Bretton Woods institutions, EDs who are sensitive to this imbalance of priorities. If properly supported by the Treasury, they can raise the issue (a) generally in the Board of Executive directors and with the top management of the institutions, and (b) in individual loan operations which come before them for approval. There is reason to believe that such an initiative would be favorably received by some directors from other European countries.

A case in point is Nicaragua, where loan conditions negotiated with the Nicaraguan authorities by World Bank staff with respect to labor reforms undermine ILO conventions 87 and 98. The Eds can make it clear that the United States does not favor, and, in the future, will not approve conditions which have the effect of undermining basic worker rights. (The Nicaragua

financial assistance package was before the Boards of Executive Directors of the World Bank and IMF for consideration, June 24, 1994.)

Fifth, the IFIs can begin to institutionalize worker rights as a basic element in their consideration of country performance, which determines the level of resources that a country can expect to receive from these institutions.

Under current practice, before deciding upon a major lending program with a country, officials of the Bretton Woods institutions, in particular, (and, in Latin America, the Inter-American Development Bank), enter into a coordinated dialogue with the authorities responsible for managing the economy. The purpose of the dialogue is to reach a meeting of the minds with respect to the basic parameters of the policies the government will follow. The exact division of labor among the IFIs has become increasingly muddled, but the objective is clear: to agree on policies and priorities.

If there is a meeting of the minds, the result is memorialized in a series of memoranda that will be considered by the Board of Directors of the individual IFIs as a preliminary to or as part of financial assistance operations: the Country Economic Memorandum or Policy Framework Paper. In general terms, these agreements will cover macro-economic --fiscal, monetary and foreign exchange-- targets; more recently, the conditions for a financial support program have included privatization of state owned enterprises, trade liberalization, reform of financial



markets, reduction of subsidies, all designed to deregulate markets and create a climate conducive to attracting foreign direct investment. These general understandings are then incorporated as specific conditions as a part of individual loan or financial support operations.

Within this context, worker rights have been accorded a low priority. This should now change. The status of worker rights, and the possible abuse of such rights should become as natural a part of the review of country performance as any other of the factors noted above. Protection of worker rights in developing countries will have benefits both for the countries themselves and for their long term trade relationship with the United States. Respect for worker rights in developing countries will contribute to the establishment of a larger internal market. This in turn will foster stronger democracy and more equitable distribution of income.

In a June 1993 review of Mexican country performance, the World Bank noted that should Mexico backslide in implementing economic reforms the Bank would lower the level of its lending program in that country to a core program. The IFIs have never considered worker rights relevant to evaluating Mexico's development performance. A change in thinking along the lines I am advocating here would mean, for example, that in the case of Mexico, respect for core worker rights--ILO conventions 87 and 98--would be as integral a part of Mexico's development performance as privatization of state enterprises or financial

market reforms, and as relevant in determining the level of resources a country could expect to receive.

Such changes will not come easily. What is fundamentally at issue is a change in the way we conceive development. To date, it has been narrowly defined as capital accumulation, with some concessions to the need for investment in the human resources of a country as a means of improving its economic efficiency and attractiveness for foreign investment. The issue of enhancing worker rights goes to the question of equity: who gains and who loses in the process of development. It is time to redress the imbalance, which, in the IFIs, has favored the interests of capital to the disadvantage of working people. Worker rights are not a panacea. More effective enforcement of such rights will not change the influx of migrants to the great metropolitan centers from the rural areas, which constitute a downward pressure on wages. That is a function of underdevelopment and, at times, near feudal rural conditions in many countries. But it is also true that in many countries, as shown in Brazil, where workers are free to organize truly independent trade unions, labor can play a constructive role, whether in negotiations with companies or national economic authorities.

We should seek to ensure that, first, the IFIs do not undermine that prospect and, second, where possible, they facilitate the core worker rights to which I have alluded.

Testimony on International Labor Rights and Trade  
Peter Dorman

Earlier this year I was asked by the U.S. Department of Labor to review the literature on international labor rights and trade, including theoretical analyses, empirical studies, policy proposals, and actual historical experience. I have now submitted a report based on this work to the Labor Department, and what I would like to do today is to summarize some of my findings. Here are the main issues I examined:

- 1.What are the potential motives for supporting international labor rights, and what assumptions underlie them?
- 2.Why have we witnessed the dramatic increase in manufactured imports from less developed countries in the past two decades?
- 3.What empirical evidence exists for the proposition that historically high unemployment and wage stagnation in the U.S. and Europe are caused by this surge in imports?
- 4.What are the implications of the conventional economic theory of international trade for the issue of labor standards? On what grounds has this theory been criticized?
- 5.How should labor rights and standards be understood? Are they essentially interferences with a the workings of a market economy or alternative bases for organizing one?
- 6.What provisions have historically been incorporated in legislation and treaties pertaining to international labor rights? How could these rights be classified and prioritized?
- 7.What theoretical and empirical basis exists for the claim that labor rights actually influence labor market outcomes? What is the magnitude of their effect?
- 8.What basis exists for the concern that increased labor rights in the production of tradeable goods will interfere with the process of economic development?
- 9.What are the options for international labor rights policy? What are their relative strengths and weaknesses? How do political constraints enter into the choice between them?
- 10.What are the most important areas for future research?

It is obviously not possible to review all of these topics in the space of a few minutes. Instead, I will focus on a few points and leave the others, if you wish to go into them, for the question period.

First, a distinction should be made between the approach that

primarily sees labor rights as a component of human rights in general, and the approach that views activism on this front as promoting an economic interest that crosses national borders. The latter is based on the notion that labor rights policies, by improving the living standards of workers who have historically been repressed, also benefit workers in exporting and import-competing sectors elsewhere. The difference is important, because national sovereignty is at stake. If only a human rights motivation is envisioned, only the most extreme violations justify intervention, since weight must also be given to value of non-interference in the internal affairs of other nations. If the economic effects of denying labor rights are propagated worldwide, on the other hand, the scope of justifiable intervention is widened. For this reason, before any of the detailed questions are explored, it is necessary to decide what the policy objectives actually are.

Second, the logical basis for a more expansive, economic motive for labor rights policy is in direct conflict with the orthodox theory of international trade. This should not be considered simply an internal dispute among economists, since this theory lies at the heart of the GATT, and now WTO, process. Here is the problem: the claim that workers in the developed countries have a material stake in international harmonization of labor rights is based on the premise of "competitiveness". Denial of these rights is thought to lead to a reduction in wages and labor costs, thereby intensifying the competitive pressure on production elsewhere. This leaves workers in the developed countries with a choice between accepting a cut in their own wages, higher unemployment, or both. Under these conditions the political support for social standards will evaporate. But such a scenario is ruled out under the assumptions of trade theory. As most economists see it, any temporary trade imbalance triggered by wage cost reductions in one country will ultimately be offset by exchange rate changes, restoring balance once again. This means that workers displaced by imports can generally expect to find jobs in expanding export industries. It also means that the country forced to devalue its currency ultimately comes out ahead on trade; in fact, the greater the cost reductions in the first country, the greater the trade benefits to the second. This leads to the conclusion that, if trade theory is correct, the entire conception of "competitiveness" on which labor rights activism (and many other policy agendas) is based is intellectually unsound. Trade theorists do recognize, of course, that, while countries are believed to benefit in the aggregate from free trade, individual interest may suffer. This is why they are on guard against outbreaks of protectionism. From their perspective, the campaign for international labor rights must be protectionist if it is not simply confused.

To establish a basis for any but the most minimal program in labor rights, then, supporters must find grounds for criticism of trade theory. In my report I consider six of them; here I will mention three in particular.

First, for the theory of comparative advantage in trade to hold, exchange rate adjustment must restore trade balance efficiently and costlessly. There are theoretical and empirical grounds for doubting this.

Trade accounts, of the U.S. and other countries, show no longer run tendency toward balance. Left to their own devices, currency markets do not produce balanced trade, and exchange rate intervention by governments and central banks is an uncertain process that may not always provide sufficient adjustment. In practice, countries wishing to erase serious trade deficits resort to other mechanisms not envisioned by trade theorists: microeconomic ("competitiveness") policies and macroeconomic austerity. These adjustments can be costly, offsetting the presumed advantages of liberal trade. Second, trade theory abstracts from the problem of unemployed resources. Most trade models assume wages are, or should be, determined by an equilibrium of supply and demand, in which all labor is fully employed. If this is not an adequate characterization of real-world labor markets or the process by which effective demand and national income are determined, a laissez-faire approach to trade may not be warranted. Finally, trade theory assumes that each national economy, and the trade-linked world taken as a whole, gravitate toward a unique equilibrium. From this perspective, it is the goal of economic policy, above all, to get out of the way and let this equilibrium emerge. Contemporary theoretical work in other branches of economics, however, suggest that complex economies have a vast number of potential equilibria. Some of these may be better than others, but markets do not have the capability to compare and choose between them. This requires some form of conscious coordination if it is not to be left to chance. Thus room is created for a variety of proposals for international collective action in fields like labor standards, the environment, and so on. For example, a prominent argument, to which our own Secretary of Labor is a partial subscriber, holds that several roads of economic development lie before us. Some are characterized by high utilization of human potential, others by making human skill and ingenuity as superfluous to production as possible. Since the likelihood of any particular road being selected depends on the development of a critical mass of adoptees, and since the process is worldwide, a case can be made for upward labor harmonization to produce the "right" equilibrium.

From this brief survey, I would draw two conclusions:

- (1) Policy advocates and economists can create models to produce any set of desired conclusions. This means there can be no purely theoretical resolution to the dispute between trade theorists and their adversaries. Assessment should depend on what one believes to be the facts of the matter, and even these may vary from case to case.
- (2) There has been an unfortunate imputation of motives in this debate. Advocates of international labor standards sometimes unfairly accuse their opponents of indifference to the plight of exploited workers, while advocates of unrestricted trade may return the favor by accusing their adversaries of ignorance of elementary economics. The issue is neither moral sensitivity nor intellectual sophistication, however. The two sides to this debate simply hold different views on the mechanisms underlying international trade and their consequences for national economies.

A third major issue has to do with how we think about labor rights. Broadly speaking, there are two schools of thought. One is that of neoclassical economics, which views markets as socially beneficial institutions capable of making the best possible choices in matters of wages and prices, production methods, and outputs. Adherents of this view are likely to see labor standards as infringements on markets, justifiable only if they correct for an identifiable "market failure" like spillover effects and public goods. Within this group, of course, there will be those who see market failures as common and others who see them as rare, or overshadowed by corresponding "government failures". A very different position is taken by those who subscribe to the institutionalist view that markets are in many respects incomplete or inappropriate instruments. For instance, institutionalists place more stress on decision-making within institutions, like corporations, where markets are less decisive. They believe market systems are based on a substratum of legal and social rights, and that these rights can be reshuffled so that markets can produce a different, and perhaps better, set of results. They also elevate the principle of collective action as an alternative to markets, preferable where individuals can coordinate their choices to mutual advantage. For institutionalists (and this includes the American tradition of "legal realism" as well), the establishment of labor rights can serve many social purposes beside the correction of identifiable market failures. From both perspectives, however, it is important to distinguish between \*rights\* that determine who can use what legal or institutional redress and \*standards\* that specify specific minimum or maximum outcomes. This distinction is critical when we are considering policies that will apply in the very different circumstances of advanced and developing countries. For obvious reasons, rights are preferable to standards in this context, and standards themselves need to be devised in as flexible a fashion as possible.

Finally, it is important to emphasize that the list of possible policy alternatives is long, and it is permissible to mix and match. In my report I describe these approaches: the existing apparatus of the International Labour Organisation, the insertion of a social clause in the WTO, introducing labor rights conditionality in international lending institutions, the use of consumer labelling to convey information about labor standards, codes of conduct for multinational corporations, expanded technical and financial assistance to developing countries to upgrade labor standards, and the creation of an international court of labor appeals with the ability to impose economic sanctions. I found much to recommend in this last approach, either alone or as part of a more elaborate strategy. Its advantages include:

1. It may be the least contentious mechanism for introducing true enforceability to multilateral labor rights objectives.
2. By the nature of the adversarial legal process, it can take better advantage of the resources and energy of non-government organizations than approaches that rely primarily on administrative procedures.
3. It is flexible, in that it could be implemented on the basis of an initially limited scope for review; later, as it gains more

acceptance, this scope could be widened. It is also flexible in its adaptation to national differences in labor law.

4. It is more truly symmetrical than any other enforcement mechanism. Advanced countries, which often fall short of their own aspirational statutes (such as our own), would be as subject to the court's review as well as developing countries.

5. It could serve as a first step beyond the advisory role of the World Court in establishing the international rule of law.

To close, I would like to recommend that this Committee and others interested in the issue of international labor rights, recognize the necessity for reciprocity as a governing principle in this area. If the United States and other industrialized countries are to ask that less developed countries join them in this venture, then it is only reasonable that we offer offsetting benefits. These might include increased trade access beyond that specified in the Uruguay Round, increased financial support for education and training, or greater capitalization and more favorable conditions for multilateral lending all, incidentally, worth supporting on their own merits.

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